



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

SMW

Docket No: 5593-07

7 February 2008

[REDACTED]

This is in reference to your application for correction of your **naval record pursuant to the provisions of title 10 of the United States Code, section 1552.**

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 February 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

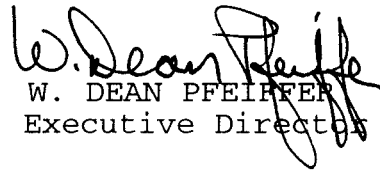
On 15 June 1993, you enlisted in the Marine Corps at age 18. On 14 November 1993, you began an unauthorized absence (UA) that ended on 4 January 1994, a period of about 51 days. On 11 February 1994, you requested an other than honorable (OTH) discharge for the good of the service to avoid trial by court-martial for the charge of UA. On 16 March 1994, the separation authority approved your request for an OTH discharge for the good of the service to avoid trial by court-martial. On 23 March 1994, you were so discharged.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth. The Board also considered your contention that you went UA to consult your family physician after you were refused treatment at a military sick call. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant changing the characterization of service due to the seriousness of your misconduct. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the

possibility of confinement at hard labor and a punitive discharge. Regarding your contention, there is no evidence in the record to show that you were ever denied medical care. Furthermore, a knee injury or pain does not excuse misconduct. Finally, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director