



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

TJR
Docket No: 3716-07
11 February 2008

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 7 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.

You enlisted in the Marine Corps on 23 July 1979 at age 17 and served without disciplinary incident until 21 February 1980, when you received nonjudicial punishment (NJP) for disobedience, carrying a concealed weapon, and absence from your appointed place of duty. About five months later, on 8 July 1980, you received NJP for absence from your appointed place of duty, disrespect, failure to go to your appointed place of duty, and five specifications of failure to obey a lawful order.

On 17 March 1981 you were convicted by special court-martial (SPCM) of disobedience and two specifications of assault. You were sentenced to confinement at hard labor for 85 days, reduction to paygrade E-1, and a bad conduct discharge (BCD). Twenty-five days of the confinement and the BCD were suspended for six months. On 29 September 1981 you were again convicted by SPCM of three specifications of disobedience and dereliction of duty. You were sentenced to confinement at hard labor for one month and a \$339 forfeiture of pay.

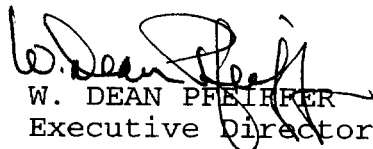
On 11 January 1982 you received your third NJP for disrespect and two specifications of using provoking speech. The punishment imposed was a \$550 forfeiture of pay. Six months later, on 16 June 1982, you were convicted by SPCM of two specifications of disrespect, disobedience, two specifications of assault, and two periods of unauthorized absence (UA) totalling seven days. You were sentenced to a \$1,468 forfeiture of pay, confinement at hard labor for four months, and a BCD. After the BCD was approved at all levels of review, on 16 February 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which resulted in three NJPs and three court-martial convictions. Further, you were given an opportunity to earn a better characterization of service when the BCD you received at an earlier court-martial was suspended, but failed to do so as evidenced by your continued misconduct. Finally, no discharge is upgraded merely because of the passage of time. 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