



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

JRE
Docket No. 07470-07
1 July 2008



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

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 June 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

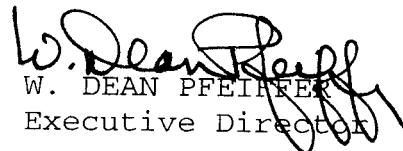
The Board found that you enlisted in the Marine Corps on 16 July 1964. You underwent a pre-separation physical examination on 13 January 1968, and were found physically qualified for separation. You were discharged under other than honorable conditions on 17 January 1968, pursuant to the approval of your request for discharge in lieu of trial by court-martial for the offenses of wrongful possession and use of marijuana. Your discharge was upgraded to general on 6 October 1977 by the Naval

Discharge Review Board (NDRB) under the terms of Special Discharge Review Program. On 20 April 1978, the NDRB re-reviewed the circumstances of your service and discharge and determined that you did not qualify for discharge upgrading under uniform standards for discharge review; consequently, you are ineligible for the majority of the benefits administered by the Department of Veterans Affairs.

The Board was not persuaded that you were unfit for duty by reason of physical disability on 17 January 1968. In addition, it found that you would not have been entitled to disability separation or retirement even if you had been unfit for duty, as your discharge in lieu of trial by court-martial would have precluded disability evaluation processing. The Board concluded that the NDRB acted properly on 20 April 1978 when it declined to affirm the upgrade of your discharge under uniform standards for discharge review, given your request for discharge in lieu of trial by court-martial for possession and use of marijuana, and your extensive prior disciplinary record, which included four instances of nonjudicial punishment, and convictions by two summary courts-martial and one special court-martial. 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