



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

TRG
Docket No: 7987-07
7 February 2007

[REDACTED]

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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 29 January 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.

You enlisted in the Marine Corps Reserve on 28 August 1973 at age 18. On 27 September 1973 you reported for an initial period of active duty for training. On 8 February 1974 you made a statement admitting to use of marijuana and speed after marijuana residue was found in your locker. On 7 March 1974, you were released from active duty with your service characterized as honorable. It appears that you would have been paid for your period of active service at that time.

On 16 March 1974, the lab reported that the evidence taken from your locker indicated marijuana and lysergic acid diethylamide (LSD). The results of the test were forwarded to your reserve unit for action. Subsequently, you again made a statement admitting use of drugs. On 18 July 1974 you were notified of separation processing by reason of unfitness. At that time, you elected to waive the right to have your case heard by an administrative discharge board. After review, the separation authority directed discharge under other than honorable conditions and you were so discharged on 17 September 1974.

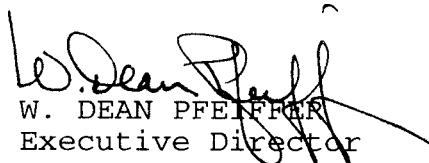
You contend in your application that you were never given a final discharge, were not allowed to complete six months of active duty and were never paid for your service after March 1974.

It appears from the record that you completed recruit training, but were dropped from advanced training probably because of your admission of drug abuse. Although your service on release from active duty was characterized as honorable, it is clear that administrative action concerning your drug abuse was pending. The record shows that you were properly processed for discharge by reason of unfitness and were issued an undesirable discharge bon 17 September 1974. Whether or not you attended drills after your release from active duty cannot be ascertained from the record. However, even if you did, the Barring Act, 28 United States Code 3702, prevents claim against the government which are over six years old. Therefore, there is no basis for payments in your case.

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