



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

SMS
Docket No: 2702-08
20 November 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 19 November 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.

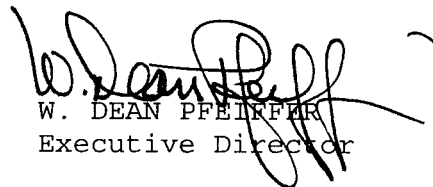
On 16 February 1978, you enlisted in the Marine Corps at age 18. On 17 May 1979, you were counseled regarding your discreditable conduct and warned that further infractions could result in disciplinary action or administrative separation. During the period 14 June 1979 to 21 January 1981, you had nonjudicial punishment (NJP) on four occasions and were convicted by a special court-martial. Your offenses included larceny, absence from your appointed place of duty, wrongful appropriation, two instances of unauthorized absence totaling 24 days, failure to go to your appointed place of duty, disobedience of a lawful order, missing the movement of your unit, and two instances of disrespect.

On 28 January 1981, your commanding officer initiated administrative separation by reason of misconduct due to frequent discreditable involvement. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 2 April 1981, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to frequent discreditable involvement. On 17 April 1981, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and desire for a better discharge. The Board also considered your contention that you were discharged because of a personal conflict with a superior. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in administrative discharge. Regarding your contention, there is no evidence in the record to support it. The record does show that you were discharged as a result of your misconduct that included four NJP's and a court-martial conviction. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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