



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

SJN
Docket No: 03179-08
20 February 2009



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 18 February 2009. 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.

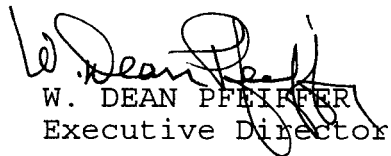
You enlisted in the Marine Corps and began a period of active duty on 7 January 1957 at age 19. On 12 February 1958, you were convicted by summary court-martial (SCM) of a 13 day period of unauthorized absence (UA). You were sentenced to hard labor and a forfeiture of pay. On 6 May 1958, you were convicted by civil authorities of being under the influence of drugs and petty theft. You were sentenced to four years probation on the condition that you serve eight months in jail.

Based on the civil conviction you were processed for an administrative discharge by reason of unfitness. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 20 May 1958, your commanding officer forwarded your case recommending that you receive an undesirable discharge by reason of unfitness. On 6 June 1958, an ADB unanimously found that you had committed misconduct and recommended an undesirable discharge. On 18 June 1958, the separation authority directed an undesirable discharge. You were so discharged on 18 July 1958.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your convictions by SCM and civil authorities, and subsequent incarceration. 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