



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

BAN  
Docket No: 04118-08  
9 February 2009

[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, 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 5 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 on 24 February 1984, and served without disciplinary incident until 14 December 1984, when you received nonjudicial punishment (NJP) for failure to obey a lawful order and larceny.

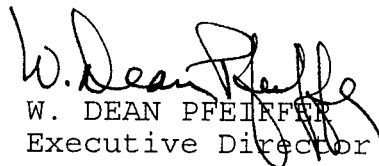
Shortly thereafter, on 31 December 1986, you were arrested by civil authorities in San Diego, California for possessing known stolen property and for burglary. The charge of possessing known stolen property was dismissed, however, you were convicted of burglary, given five years probation, and served 120 days in jail. Furthermore, due to your civilian conviction, on 22 May 1987, you were separated from the Marine Corps due to a commission of a serious offense (COSO) and received an other than honorable (OTH) discharge and an RE-4 reenlistment code.

Although your felony conviction was later reduced to a misdemeanor and ultimately dismissed, at the time of your separation from the Marine Corps, your conviction was still a felony and it was in the Marine Corps' interest to separate you from military service due to your COSO.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, personal references, and belief that enough time has elapsed to warrant upgrading your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Further, there is no provision in the law or regulations that allows for recharacterization of service due solely to 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