



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

SMS
Docket No: 4952-08
20 February 2009

[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 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 6 July 1981, you enlisted in the Marine Corps at age 18. On 13 January 1982, you had nonjudicial punishment (NJP) for assault. On 22 January 1982, you were counseled regarding a poor attitude. On 5 March 1982, you had NJP for sleeping while on watch. On 9 April 1982, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action. During the period 20 April 1982 to 22 November 1983, you had NJP on three occasions. Your offenses included conduct unbecoming a Marine, failure to go to your appointed place of duty, and use of marijuana.

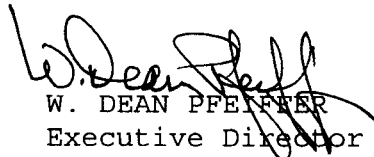
Based on the information currently contained in the record, it appears that your commanding officer subsequently initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, you would have acknowledged that separation could result in an other than honorable (OTH) discharge and afforded the right to have your case heard by an administrative discharge board (ADB), but it appears that you waived that right. On 22 February 1984, the staff judge advocate found that your case was sufficient in law and fact. On 27 February 1984, the separation

authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 14 March 1984, 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. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. 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 PFEFFER
Executive Director