



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

TJR
Docket No: 8002-08
24 June 2009

[REDACTED]

Dear [REDACTED]

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 17 June 2009. The names and votes of the members of the panel will be furnished upon request. 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 12 March 1969 at age 18 and began a period of active duty on 28 May 1969. You served without disciplinary incident until 10 July 1970, when you were convicted by special court-martial (SPCM) of a 111 day period of unauthorized absence (UA).

On 6 January 1972 you were again convicted by SPCM of a 63 day period of UA. Six months later, on 19 July 1972, you received nonjudicial punishment (NJP) for absence from your appointed place of duty. Shortly thereafter, on 7 September 1972, you were convicted by SPCM of five periods of UA totalling 62 days. You were sentenced to reduction to paygrade E-1, confinement for 75 days, a \$750 forfeiture of pay, and a bad conduct discharge (BCD). On 28 September 1972 you were convicted by summary court-martial (SCM) of wrongful possession of marijuana.

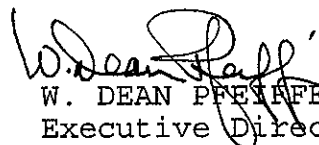
On 20 November 1972 you submitted a written request for a general discharge, in which you stated, in part, that the BCD would make you ineligible for veterans' benefits. However, on 22 November 1972, this request was denied. Subsequently, the BCD was approved at all levels of review and on 6 December 1973 you were so discharged.

On 10 August 1976, upon completion of alternate service, you were awarded a clemency discharge pursuant to the provision of the Presidential Proclamation 4313 (PP-4313).

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your repetitive misconduct which resulted in NJP and four court-martial convictions. Finally, the Board noted that you were issued a clemency discharge under the provisions of PP-4313, but concluded that a further change, which would make you eligible for benefits, was not warranted. Accordingly, your application has been denied.

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