



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

TJR
Docket No: 8061-08
14 July 2009

[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 7 July 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 reenlisted in the Marine Corps on 3 August 1984 after seven years of prior honorable service. You continued to serve without disciplinary infraction until 10 May 1985, when you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. About two months later, on 3 July 1985, you received NJP for drunk and disorderly conduct, failure to obey a lawful order, breach of the peace, disrespect, disobedience, and two periods of failure to go to your appointed place of duty.

On 31 March 1986 you received your third NJP for a two day period of unauthorized absence (UA) and were awarded reduction to paygrade E-2 and a \$700 forfeiture of pay, which was suspended for six months. However, on 23 April 1986, this suspended punishment was vacated due to your continued misconduct. Also, as a result of your continued misconduct, on 2 July 1986, you were convicted by special court-martial (SPCM) of failure to

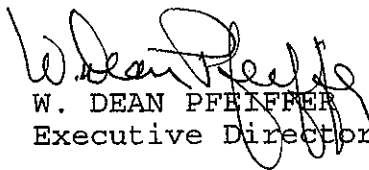
maintain sufficient funds and uttering 27 dishonorable checks in the amount of \$3,465. You were sentenced to reduction to paygrade E-1, confinement at hard labor for 15 months, a \$6,450 forfeiture of pay, and a bad conduct discharge (BCD).

On 14 October 1986 you submitted a written request for clemency, stating in part, that you did not desire restoration to duty, but desired a reduction in the forfeitures of pay and remission of the punitive discharge. Nonetheless, the BCD was subsequently approved at all levels of review and on 17 March 1988, while on appellate leave, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and desire to upgrade your discharge since you were allowed to serve with a severe mental handicap. It also considered your letter of explanation regarding the events of your period of service. 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 three NJPs and a court-martial conviction. 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