



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

SJN
Docket No: 08168-08
7 July 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 1 July 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 24 October 1974 at age 18. During the period from 9 June to 13 December 1975, you received five nonjudicial punishments (NJP's) for two instances of absence from your appointed place of duty, five instances of disobedience, three instances of sleeping on post, larceny, two periods of unauthorized absence (UA) totaling three days, and disrespect. Additionally, you were counseled and warned that further misconduct could result in administrative discharge action.

On 13 December 1975, you were convicted by summary court-martial (SCM) of five days of UA, two specifications of absence from your appointed place of duty, and disobedience. You were sentenced to a forfeiture of pay and confinement at hard labor.

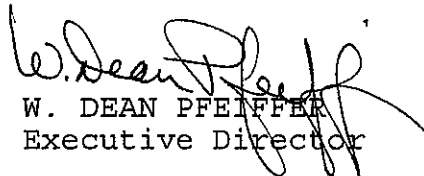
On 25 March 1976, you were processed for an administrative discharge by reason of unfitness due to frequent involvement. On 7 April 1976, your commanding officer forwarded your case recommending an undesirable discharge by reason of unfitness. On 28 April 1976, you elected to waive the right to have your

case heard by a board of officers. On 10 May 1976, the separation authority directed an undesirable discharge. You were so discharged on 11 May 1976.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, post service medical issues, and contention that a mental condition interfered with your ability to serve. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of five NJP's for serious offenses, and conviction by SCM. The Board also noted that you waived the right to have your case heard by a board of officers, your best chance for retention or a better characterization of service. Concerning your contention of suffering from a mental condition, there is no evidence in the record to support it, and you submitted no such evidence. 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