



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

TJR
Docket No: 8823-08
20 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 14 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 enlisted in the Marine Corps on 2 July 1970 at age 19 and immediately began a period of active duty. You served without disciplinary infraction until 10 December 1971, when you received nonjudicial punishment (NJP) for disobedience and were awarded restriction and extra duty for seven days.

On 12 December 1973 you were apprehended by civil authorities on charges of possessing and transferring marijuana and possession of heroin. As a result, on 17 June 1974, you were convicted by civil authorities of the foregoing charges and sentenced to confinement at forced labor for one year.

On 25 June 1974 you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On

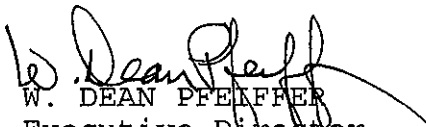
10 July 1974 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 23 July 1974 the discharge authority approved this recommendation.

On 18 November 1974 you began a period of unauthorized absence (UA) that was not terminated until 18 December 1974. Your commanding officer, in concurrence with the ADB, recommended discharge under other than honorable conditions by reason of misconduct. Subsequently, the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to civil conviction and on 19 December 1974 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, the passage of time, and your desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct and lengthy period of UA from the Marine Corps. Finally, no discharge is upgraded due solely to the passage of time. 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