



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

TJR  
Docket No: 9496-08  
20 August 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 18 August 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 21 February 1968 at age 17 and began a period of active duty on 28 February 1968. On 10 December 1969 you underwent a psychiatric evaluation which you requested because you could no longer take being in the service due to the many things you saw while serving in the Republic of Vietnam that kept you awake at night. Shortly thereafter, on 16 December 1969, you received nonjudicial punishment (NJP) for a one day period of unauthorized absence (UA).

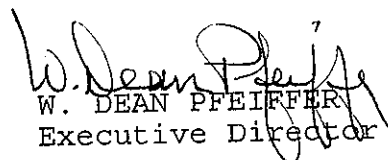
During the period from 5 January to 29 April 1970 you received three more NJPs for failure to go to your appointed place of duty, three specifications of breaking restriction, and absence from your appointed place of duty. You were also convicted on two occasions by summary courts-martial (SCM) of using provoking speech, breaking restriction, absence from your appointed place of duty, and two periods of UA totalling 10 days.

Subsequently, you were processed for an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 15 June 1970, after consulting with legal counsel, you waived your right to present your case to an administrative discharge board (ADB). On 16 July 1970 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities as evidenced by four NJPs and two SCMs. On 20 July 1970 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 27 July 1970, 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, combat history, post service conduct, and 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 misconduct which resulted in four NJPs and two court-martial convictions. Further, you were given an opportunity to defend yourself and possibly obtain a better characterization of service, but waived your procedural right to present your case to an ADB. 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