



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

SJN
Docket No: 11059-08
5 October 2009



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 29 September 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 26 March 1974 at age 17. During the period from 3 October to 19 April 1975, you received four nonjudicial punishments (NJP's) for two instances of failure to go to your appointed place of duty, two instances of disobedience, disrespect, and drunk and disorderly conduct. Additionally, you were counseled and warned that further misconduct could result in administrative discharge action.

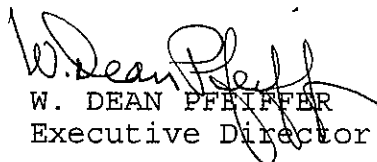
On 15 August 1975, you were convicted by special court-martial (SPCM) of drunk and disorderly conduct, two specifications of being incapacitated for the proper performance duty, breaking restriction, and disrespect. You were sentenced to confinement at hard labor, a reduction in paygrade, forfeiture of pay, and a bad conduct discharge (BCD). However, on 18 September 1975, the convening authority approved the sentence, but suspended the execution of the BCD for six months.

On 2 and 6 January 1976, you received NJP for disobedience, breaking restriction, and being an accessory after the fact. As a result of last two NJP's, you received the BCD after appellate review was completed.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of six NJP's, two of which were after you were given an opportunity to earn a better characterization of service when your BCD was suspended for a period of six months, and conviction by SPCM. 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