



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

SJN
Docket No: 11838-08
29 October 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 27 October 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 15 August 1974 at age 17. During the period from 28 April 1975 to 16 July 1975, you received four nonjudicial punishments (NJP's) for disrespect, three instances of failure to go to your appointed place of duty, disobedience, and attempted assault. On 9 January 1976, you were convicted by civil authorities of two counts of wrongful appropriation of property and resisting arrest. You were sentenced to six to 23 months of confinement.

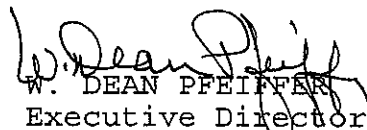
On 28 April 1976, your commanding officer recommended that you receive an undesirable discharge by reason of unfitness. At that time you were incarcerated by civil authorities pending additional charges of grand larceny and statutory burglary. You were notified of pending administrative separation action and on 12 May 1976, an administrative discharge board (ADB) recommended that you be discharged from the service with an undesirable

discharge due to unfitness. Subsequently, your case was forwarded, and on 1 June 1976 the separation authority approved the recommendation for an undesirable discharge. You were so discharged on 8 June 1976.

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 concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in four NJP's, conviction by civil authorities for serious offenses, and the fact that you were pending additional civilian related charges for serious offenses at the time of your ADB. 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