



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

BAN  
Docket No: 12140-08  
25 September 2009

[REDACTED]

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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 17 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 on 10 April 1967, and served without disciplinary incident until 26 April 1967, when you received nonjudicial punishment (NJP) for failure to obey a lawful order. Shortly thereafter, you received the following disciplinary actions: on 5 May 1967, you received NJP for failure to obey a lawful order; and on 1 March 1969, you were arrested by civil authorities in Puerto Rico for premeditated murder. However, on 9 September 1969, the charge was reduced and you were convicted of voluntary manslaughter, sentenced to five years probation, and returned to military jurisdiction.

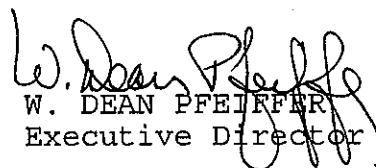
You were in an unauthorized absence (UA) status from 16 to 19 February 1970 (three days) and then again, from 16 to 18 March 1970 (two days). On 14 April 1970, you were recommended for separation with an other than honorable (OTH) discharge due to

your civil conviction. In addition, while awaiting the separation authority's final approval, you were UA on two separate occasions on 2 May and 1 June 1970. You exercised your right to an administrative discharge board (ADB), which met on 11 June 1970, and found you committed misconduct and recommended an OTH discharge. The separation authority finally approved the ADB's recommendation and on 24 July 1970, you were separated with an OTH discharge and an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and claim of military related health issues. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to your serious misconduct. 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