



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

BAN
Docket No: 2855-09
28 December 2009



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 15 December 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 28 January 1981, and served without disciplinary incident until 4 November 1981, when you received non-judicial punishment (NJP) for failure to obey a lawful order. Shortly thereafter, you received the following disciplinary actions: on 15 January 1982, you received NJP for unauthorized absence (UA) in excess of 23 days; on 4 March 1982, you were convicted at a summary court-martial for failure to obey a lawful command, three specifications of disobeying a lawful order, being disrespectful in language, assault, two specifications of a general order violations, and UA; and on 11 May 1982, you received NJP for destruction of government property, assault and drunk and disorderly conduct.

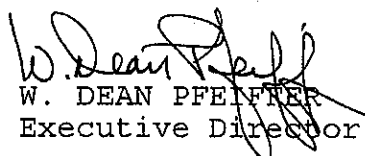
Therefore, you were recommended for separation under the expeditious discharge program due to your misconduct. You waived

all of your procedural rights, to include your right to an administrative discharge board (ADB). The separation authority approved the request and on 25 May 1982, you were separated with a general discharge and an RE-3C reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to your serious misconduct. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Finally, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. 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