



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

TJR  
Docket No: 3204-09  
17 March 2010

[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 16 March 2010. 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 26 August 1972 at age 18 and began a period of active duty on 18 September 1972. You served without disciplinary incident until 26 January 1973, when you received nonjudicial punishment (NJP) for disobedience. The following month, on 16 February 1973, you received NJP for gambling. During the period from 19 to 28 November 1973 you were in an unauthorized absence (UA) status for nine days. Shortly thereafter, on 19 December 1973, you began another period of UA that was not terminated until you were apprehended by civil authorities and charged with armed robbery. Subsequently, on 15 January 1974, you were convicted by civil authorities of armed robbery and sentenced to confinement for 15 to 18 years.

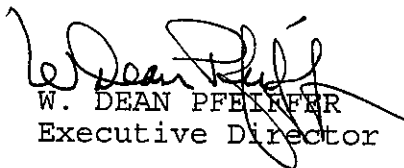
On 6 March 1974, while in custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to the civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 17 May 1974 an ADB recommended discharge under other than honorable conditions by

reason of misconduct due to civil conviction. Your commanding officer also recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 8 March 1974 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct. On 30 May 1974 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 and desire to upgrade your discharge. It also considered your assertion that your misconduct was due to being drugged. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities. Finally, there is no evidence in the record, and you submitted none, to support your assertion. 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