



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

BJG
Docket No: 12021-09
11 August 2010



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 10 August 2010. 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.

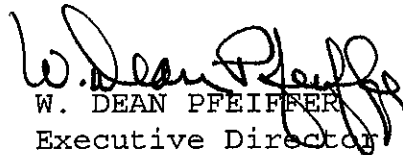
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board found that you entered active duty in the Marine Corps on 1 June 1973. You received nonjudicial punishment (NJP) on three occasions for failure to obey a lawful order (two specifications), disrespect, and absence from your appointed place of duty. You began a period of unauthorized absence on 13 December 1974, which ended on 6 January 1976, a period of 754 days. On 1 April 1976, you pled guilty to armed robbery in civil court and were sentenced to five years confinement. You were notified that your commanding officer was recommending you for administrative separation with an other than honorable (OTH) discharge due to

misconduct (civil conviction). You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 13 January 1977, you received an OTH discharge due to misconduct (civil conviction), and were assigned an RE-4 (not recommended for retention) reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. The Board concluded that your discharge should not be upgraded due to your very serious acts of misconduct. The Board found that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. In view of the above, 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