



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

BJG

Docket No: 1756-10

2 November 2010

[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 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 2 November 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.

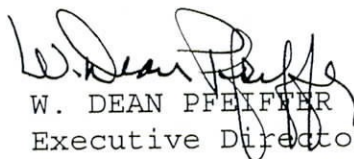
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board found that you entered active duty in the Marine Corps on 1 October 1964. You received nonjudicial punishment on two occasions and were convicted by a special court-martial. Your offenses included dereliction of duty, and unauthorized absence (four specifications totaling 40 days). You served until 4 January 1969, when you were released from active duty under honorable conditions and transferred to the Marine Corps Reserve, and assigned and RE-4 (not recommended for retention) reenlistment code.

On 26 November 1969, you pled guilty to assault with a deadly weapon in Los Angeles, California, and were sentenced to confinement for the term prescribed by law. You were notified that your commanding officer was recommending you for administrative separation with an other than honorable (OTH) discharge due to misconduct. You exercised your procedural right an administrative discharge board, which met and found that you had committed misconduct and recommended an OTH discharge. The separation authority agreed with the ADB's finding and recommendation, and you were so discharged.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth, combat service in Vietnam, and current medical problems. The Board concluded that your general discharge should not be upgraded due to your acts of misconduct. 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