



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

TAL
Docket No: 5358-10
18 February 2011

[REDACTED]

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 16 February 2011. 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.

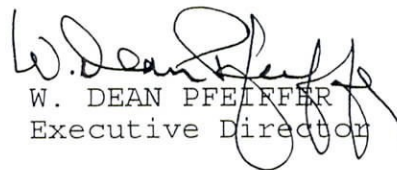
You enlisted in the Marine Corps and began a period of active duty on 2 May 1968 at age 20. On 25 March 1971, you were convicted by summary court-martial (SCM) of two instances of insubordinate conduct toward a superior noncommissioned officer. On 24 November 1971 you were convicted by special court-martial (SPCM) of failure to obey a lawful order and making a false official statement. The sentence imposed was confinement for 30 days and forfeiture of pay. On 25 February 1972, you submitted a written request for an other than honorable (OTH) discharge in order to avoid trial by court-martial for the charge of insubordinate conduct toward a superior noncommissioned officer. On 20 March 1972 the commanding general denied your request and you were retained on active duty until 27 July 1972 when you were released under honorable conditions at the expiration of your enlistment.

Characterization of service is based in part on conduct and proficiency averages computed from marks assigned on a periodic basis. Your conduct average was 3.5. At the time of your service, a conduct average of 4.0 was required for a fully honorable characterization of service.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in one SCM, a SPCM and failure to attain the required average in conduct. 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 PFELFFER
Executive Director