



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

SJN  
Docket No: 11384-10  
28 July 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 26 July 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.

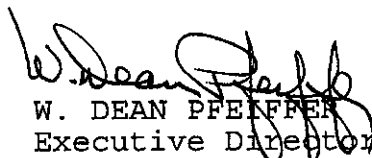
You enlisted in the Marine Corps and began a period of active duty on 16 March 1971. The Board found that you received nonjudicial punishment (NJP) for dereliction of duty. On 18 October 1976, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for three periods of unauthorized absence (UA) totaling 923 days. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. However, court-martial jurisdiction could not be established due to the fact that you had fraudulently completed your enlistment documents by failing to disclose your prior criminal record. Further, at that time, you were on probation by order of a juvenile court, no waiver was obtained regarding your record, and your recruiter had retired and could not be contacted. Subsequently, administrative discharge action was initiated by reason of recruiter malfeasance. Your case was

forwarded recommending that you receive a general discharge. On 9 June 1978, the separation authority concurred and directed that you be separated with a general discharge for time served. You were so discharged on 21 June 1978.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your fraudulent enlistment, recruiter malfeasance, NJP, very lengthy periods of UA, and the fact that, at that time, the Marine Corps did not have court-martial jurisdiction over you. 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 PFEFFER  
Executive Director