



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 4226-11
2 March 2012



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 29 February 2012. 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.

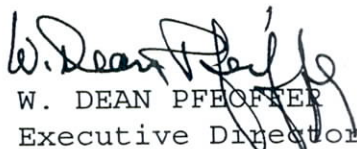
You enlisted in the Marine Corps and began a period of active duty on 19 August 1985 at age 18. You received nonjudicial punishment (NJP) on three occasions for writing three checks without sufficient funds, being derelict in the performance of your duties, making a false official statement, wrongfully soliciting another to impersonate a noncommissioned officer to cash a money order, using disrespectful language toward a superior noncommissioned officer and failure to obey a lawful order. On 22 August 1990, you were convicted by general court-martial (GCM) of culpable negligence by unlawfully killing a Marine by shooting him in the neck with a .25 caliber pistol. The sentenced imposed was confinement for two years, a forfeiture of all pay and allowances, a reduction in paygrade and a dishonorable discharge. On 10 May 1991, the convening authority suspended all punishment for a period of 12 months.

You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (pattern of misconduct). You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 20 August 1991, you received the OTH discharge for misconduct due to a pattern of misconduct.

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 a change in the characterization of your discharge given the seriousness of your misconduct that resulted in three NJPs and a GCM. The Board also noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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 PFEIFFER
Executive Director