



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

SMW
Docket No: 420-07
19 July 2007

Dear [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 18 July 2007. 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.

On 28 April 1987 you enlisted in the Navy Reserve at age 19 and began a period of active service on 20 July 1987. On 15 June 1988 and 3 February 1989 you received nonjudicial punishment (NJP) for a brief period of unauthorized absence (UA) and disrespect. On 8 August 1989, you were convicted in civil court of child neglect and assault and battery. The court sentenced you to a period of confinement, which you served from 9 August to 6 September 1989. Upon release from confinement, you were returned to your command. On 20 November 1989 you received NJP for conspiracy and assault with intent to inflict serious bodily injury.

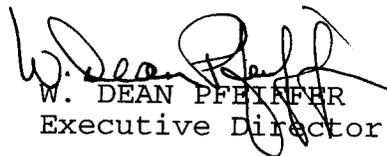
On 8 December 1989 your commanding officer (CO) initiated administrative separation by reason of misconduct due to commission of a serious offense and civil conviction. In connection with this processing, you acknowledged that separation could result in an other than honorable discharge and elected to have your case heard by an administrative discharge board (ADB). On 24 January 1990 an ADB found that you had committed misconduct as alleged and recommended an other than honorable discharge. On

20 March 1990 the separation authority approved the recommendation and directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 14 May 1990 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire for a better discharge. The Board also considered your contention that a physical altercation resulted in your involuntary discharge, and only three of the ten individuals involved were involuntarily discharged. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Regarding your contention, an individual's entire disciplinary record is considered when being recommended for an administrative separation. Given the three NJP's and civil conviction, and the fact that several of your offenses involved violence, the Board found that your contention was without merit. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted.

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