



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

TJR
Docket No: 2809-07
25 February 2008

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 5 February 2008. 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 Naval Reserve on 19 July 2000 at age 19 and served without disciplinary incident. You were commissioned in the Navy on 27 May 2005 and continued to serve without incident until 23 September 2005, when you placed a telephone call to a fellow officer and left an inappropriate message. However, on 2 October 2005, you submitted a written apology to this officer stating, in part, that the call was unprofessional and crude, and that you were under the influence of alcohol when you made the call. You further stated that you would not initiate personal communication with this officer or consume alcohol for the next five years.

On 7 October 2005 you received nonjudicial punishment (NJP) for using insulting and defamatory language on a cell-phone and drunk and disorderly conduct of a nature to bring discredit upon the armed forces. The punishment imposed was a punitive letter of reprimand for conduct unbecoming an officer and a gentleman. At that time you were also attrited from a flight training program.

Subsequently, your commanding officer strongly recommended that you submit written documentation to show cause for retention. As a result, on 25 October 2005, you submitted an appeal to the NJP and the punishment imposed on the grounds that attrition from a flight training program was disproportionate to the offense. However, your appeal was subsequently denied.

On 30 March 2006 the Chief of Naval Personnel (CNP) notified you of pending administration separation action by reason of misconduct. On 14 April 2006 you acknowledged and responded to the foregoing action. Subsequently, CNP recommended to the Secretary of the Navy (SECNAV) that you be separated under **honorable conditions by reason of misconduct**. The CNP further recommended authorization to recoup the cost of your Naval Academy education. SECNAV, the discharge authority, approved the foregoing recommendations and directed discharge under honorable conditions by reason of misconduct, and on 31 July 2006 you were so separated. At that time you were directed by SECNAV to repay the cost of your educational tuition assistance.

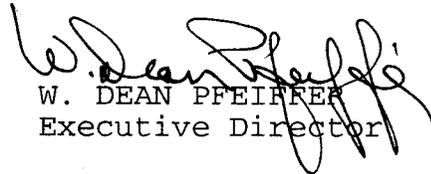
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of honorable service, letters of recommendation, appeal documents, and various explanations regarding alleged injustices. It also considered your requests to expunge your record of the NJP and the punitive letter of reprimand, upgrade the characterization of your discharge, change your narrative reason for separation, and revoke the recoupment of your educational costs. Nevertheless, the Board concluded these factors were not sufficient to warrant favorable action to your multiple requests. The Board noted that the NJP, punitive letter of reprimand, and SECNAV directed actions for discharge by reason of misconduct, and the recouping of educational tuition assistance were not only authorized, but appropriate in your case. Finally, a Sailor, whether enlisted or an officer, who is separated by reason of misconduct would normally receive an other than honorable discharge, and as such, the Board concluded you were fortunate to receive a discharge under honorable conditions. 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