



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

TJR
Docket No: 2971-07
11 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 Navy on 2 May 1979 at age 18. About two months later, on 18 July 1979, you received nonjudicial punishment (NJP) for disobedience and disorderly conduct. You served for nearly a year without disciplinary incident, but during the period from 6 June 1980 to December 1981, you received NJP on three more occasions for assault, disrespect, wrongful communication, and unbecoming conduct.

During the period from 25 February to 29 July 1982 you received NJP on three more occasions for wrongful appropriation, false pretenses, and wrongful possession of marijuana.

On 10 August 1982 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative

discharge board (ADB). On 30 August 1982 your commanding officer recommended discharge under honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities.

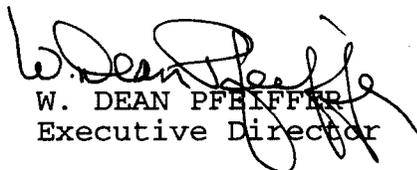
On 16 September 1982, while awaiting discharge authorization, you began a period of unauthorized absence (UA). As a result, on 30 September 1982, the discharge authority directed your commanding officer to hold your separation in abeyance pending termination of your period of UA. On 15 October 1982 you terminated the foregoing period of UA. Subsequently, the discharge authority directed separation under honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities, and on 26 November 1982 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 to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in seven NJPs. Further, the Board noted that you were given an opportunity to defend yourself against these charges, but waived your right to present your case to an ADB. Finally, Sailors discharged by reason of misconduct normally received discharges under other than honorable conditions, and the Board concluded you were fortunate to have received a general discharge. 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