



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

TJR
Docket No: 7906-07
4 September 2008

[REDACTED]

Dear [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 3 September 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 28 July 1989 at age 18. You served without disciplinary incident until 5 September 1990, when you received nonjudicial punishment (NJP) for failure to obey a lawful order and being incapacitated for duty due to drunkenness. The punishment imposed was a \$150 forfeiture of pay, restriction for 15 days, and reduction to paygrade E-2, which was suspended for six months.

On 28 May 1991 you were convicted by civil authorities of driving under the influence. About four months later, on 12 September 1991, you received NJP for disobedience and were awarded restriction and extra duty for 30 days and a reduction to paygrade E-3, which was suspended for six months.

On 13 September 1991 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense, a pattern of misconduct, and alcohol rehabilitation failure. After consulting with legal counsel, you elected to waive your right to present your case to an

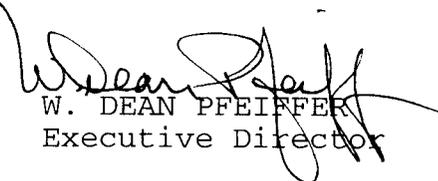
administrative discharge board (ADB). On 7 October 1991 your commanding officer recommended an other than honorable discharge by reason of misconduct due to commission of a serious offense, a pattern of misconduct, and alcohol rehabilitation failure. The discharge authority approved this recommendation and directed an other than honorable discharge, and on 25 October 1991 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, post service conduct, and desire to upgrade your discharge. It also considered your assertion that you were not legally represented or properly advised regarding your NJPs and administrative separation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities. Further, you were given an opportunity to defend yourself against your separation, but waived your right to present your case to an ADB. Finally, there is documented evidence in the record that is contrary to your assertion. 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