



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

SMW
Docket No: 10025-07
19 June 2008

[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 June 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.

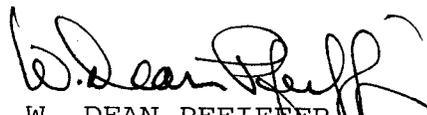
On 23 October 1981, you enlisted in the Navy at age 23.
On 20 October 1982, you began an unauthorized absence.
On 26 October 1983, you pled guilty and were convicted in civil court of four instances of robbery and two instances of sexual battery. The court sentenced you to five years in prison.

On 24 November 1983, your commanding officer initiated administrative separation by reason of misconduct due to civil conviction. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB).
On 25 February 1984, the separation authority approved the recommendation and directed an OTH discharge by reason of misconduct due to civil conviction. On 12 March 1984, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, immaturity and desire to serve your country. The Board also considered your contentions that personal and financial problems impaired your ability to serve, and that your misconduct was due to a civil conviction. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, the Board noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Finally, regarding your contentions, personal or financial problems do not excuse misconduct and regulations authorize discharge of members who are convicted in civil court. 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