



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

TRG
Docket No: 10970-07
11 August 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 5 August 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 20 January 1991 at age 18. A special court-martial convened on 24 April 1992 and convicted you of two periods of unauthorized absence totaling about 43 days and missing ship's movement on two occasions. The court sentenced you to forfeitures of pay, reduction in rate and 30 days confinement at hard labor.

Subsequently you were processed for an administrative discharge by reason of misconduct due to your commission of a serious offense. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board and stated that you did not object to separation. After review, the discharge authority directed discharge under other than honorable conditions and you were so discharged on 4 September 1992.

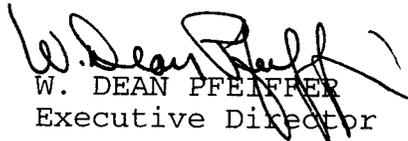
In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and contention, in effect, that you believed that your discharge would be upgraded after the passage of a period of time. The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your conviction by a special court-martial of serious offenses. There

is no provision in the law or regulations which would allow for recharacterization of a discharge based solely on the passage of a period of time. 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