



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

TJR
Docket No: 2082-08
23 January 2009



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 22 January 2009. The names and votes of the members of the panel will be furnished upon request. 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 1 December 1988 at age 18. You served for nearly a year without disciplinary infractions, but on 22 November 1989 you received nonjudicial punishment (NJP) for two periods of failure to go to your appointed place of duty, absence from your appointed place of duty, and two specifications of failure to obey a lawful order.

On 8 and 22 October 1990 you received NJP for assault and battery, conspiracy to commit assault, and dereliction of duty. On 28 October 1991 you received your fourth NJP for failure to obey a lawful order and absence from your appointed place of duty.

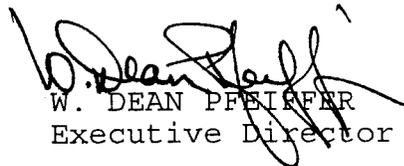
Subsequently, on 20 December 1991, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 7 February 1991 an ADB recommended discharge under other than honorable conditions by reason of

misconduct due to commission of a serious offense. On 5 March 1991 your commanding officer also recommended an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 16 March 1991 the discharge authority approved these recommendations, and on 25 March 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 and desire to upgrade your discharge. It also considered your assertion that you were told that your discharge would be upgraded six months after your separation. 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 four NJPs. Accordingly, your application has been denied.

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