



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

SMS
Docket No: 2605-08
20 November 2008



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 19 November 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.

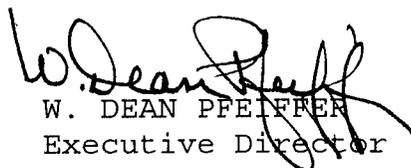
On 3 April 1986, you enlisted in the Navy at age 18. On 23 December 1986, you had nonjudicial punishment (NJP) for use of a controlled substance. During the period 17 August 1987 to 22 February 1988, you were in an unauthorized absence (UA) status on six occasions totaling about 67 days. On 24 February 1988, you had NJP for unspecified periods of UA. During the period 1 July 1988 to 15 February 1989, you were in a UA status on four occasions totaling about 211 days. On 13 April 1989, you were convicted by a special court-martial (SPCM) of the four periods of UA totaling 211 days. Your sentence included confinement, forfeitures of pay, reduction in rank, and a bad conduct discharge (BCD). During the period 12 May to 22 July 1989, you were in a UA status on five occasions totaling about 53 days. On 2 August 1989, you had NJP for the five periods of UA totaling 53 days. After the BCD

was approved at all levels of review, on 23 February 1990, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, regret for your misconduct, post service achievements, and desire to reenlist. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge or changing the reenlistment code due to the seriousness of your misconduct, specifically, more than 11 months of total UA. Furthermore, regulations direct assignment of an RE-4 reenlistment code to service members who are discharged as a result of being convicted by a SPCM. Therefore, the Board concluded that the discharge was proper as issued and no changes are 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