



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

BAN
Docket No: 02756-08
16 January 2009

[REDACTED]

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This is in reference to your application for correction to 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 11 December 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 13 January 2006, through legal counsel, you were found guilty at nonjudicial punishment (NJP) for multiple violations of the Uniform Code of Military Justice (UCMJ), to include signing a false official statement, larceny, forgery, fraud against the US government, and conduct unbecoming an officer. As a result, you received a punitive letter of reprimand. On 30 January 2006, you appealed your NJP and on 28 February 2006, your appeal was denied by the proper authority. On 21 March 2006, you submitted your request to transfer to the retired reserve list after 30 years of service to retire in the grade of O-6 (captain).

Shortly thereafter, on 27 November 2006, the Naval Personnel Command (NPC) sent you a notification letter of retirement grade determination (RGD) proceedings due to your NJP. NPC recommended you retire at the grade of O-5 (commander) due to the seriousness

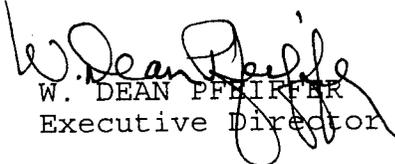
of your misconduct. The RGD recommendation was approved by the Assistant Secretary of the Navy (ASN). You appealed the decision of the RGD to the ASN. However, on 18 June 2007, ASN denied your appeal. On 21 June 2007, you officially received your retirement orders at the retirement grade of O-5 (commander).

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your length of service and fitness reports. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to your retirement grade due to the seriousness of your misconduct and found no legal error or injustice in your case. 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