



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

SMS
Docket No: 3060-08
9 December 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 3 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 16 June 1995, you reenlisted in the Navy at age 33 after three prior periods of honorable service. You were subsequently convicted by a general court-martial in which the punishment included 25 years of confinement, forfeiture of all pay and allowances, reduction to pay grade E-1, and a dishonorable discharge (DD). After the DD was approved at all levels of review, on 12 June 2007, you were so discharged.

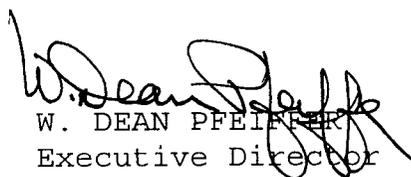
The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your prior periods of honorable service. Nevertheless, the Board concluded that these factors were not sufficient to warrant granting you a total of 20 years of honorable military service. In this regard, the Board assumed you were referring to being granted a 20 year retirement. You are advised that service in the Navy Reserve delayed entry program is not creditable

service. Your creditable service began on 25 June 1979, when you enlisted in the Navy and continued to serve until you were involuntarily extended on 16 June 1996, at which time you had completed less than 20 years of active creditable service. You are advised that even if you had attained 20 years of active creditable service, attaining sufficient service for retirement does not exclude a service member from being convicted by a court-martial in which the sentence includes a punitive discharge. 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.

The Board noted that as a result of your prior periods of honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

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