



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

SMS
Docket No: 3784-08
16 January 2009

[REDACTED]

[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 7 January 2009. 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.

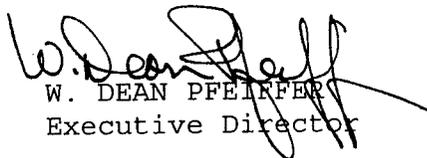
On 15 May 2006, you were appointed a commissioned officer in the Navy after completing the Navy Reserve Officers Training Corps (NROTC) Scholarship Program. On 2 December 2006, you were apprehended by security at the Navy Exchange for stealing two digital video discs (DVD) and three collectable coins. On 15 February 2007, you had nonjudicial punishment (NJP) for larceny and wrongful appropriation. Although your commanding officer recommended that you not be required to show cause for retention, the show cause authority determined that there was sufficient evidence of record to initiate administrative separation as a probationary officer. On 18 June 2007, you acknowledged that you were being recommended for administrative separation by reason of misconduct and substandard performance of duty, and a general characterization of service. In connection with this processing, you acknowledged the separation action, contested the validity of your debt, and submitted a statement in which you requested retention and a board of inquiry (BOI). On 22 June 2007, you requested mast, but your request was subsequently denied. On 27 July 2007, the Navy Personnel Command recommended a general discharge by reason of misconduct and pro-rated recoupment of your NROTC education costs. On 3 August 2007, the Secretary of the Navy approved the discharge recommendation and directed a general

discharge by reason of misconduct and recoupment of your NROTC education costs. On 28 September 2007, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, regret for your misconduct, favorable recommendations, and performance of your duties. The Board also considered the letters of recommendation that you submitted with your application. Nevertheless, due to the seriousness of your misconduct, the Board concluded that these factors were not sufficient to warrant your reinstatement in the Navy, recharacterization of your discharge, or waiving recoupment of your NROTC education costs. Furthermore, as a probationary officer, you were not entitled to have your case heard by a BOI. The Board also found that no error or injustice occurred in your administrative separation as a probationary officer and recoupment of your NROTC education costs. 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.

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