



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

SMS
Docket No: 4310-08
5 February 2009



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 4 February 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 18 January 1982, you enlisted in the Navy at age 20. On 11 March 1983, you had nonjudicial punishment (NJP) for assault. On 10 August 1983, you received a medical evaluation which indicated that you had a provisional diagnosis of having a paranoid schizoid personality. On 24 August 1983, you received a psychiatric evaluation during which you received a personality test that was invalidated by your attempt to appear to be more emotionally distressed than you actually were. The evaluation diagnosed you as having mixed personality traits, and antisocial and avoidant with tension headaches. On 26 August 1983, you had NJP for leaving your post. On 8 September 1983, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 29 October 1983, you had NJP for two instances of failure to obey a lawful order.

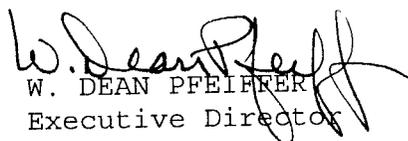
On 4 November 1983, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct. In connection with this processing, you acknowledged that separation could result in an OTH discharge and waived the right to have your case heard by an administrative discharge board (ADB).

On 15 December 1983, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 20 December 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contentions that you failed to understand the term "remorse" when asked during an NJP and that you were diagnosed as being a paranoid schizophrenic on 5 October 2004, which you believe was untreated at the time of your service and affected your ability to serve. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in an OTH discharge. Regarding your contentions, there is no evidence in the record to indicate that you failed to understand your NJP proceedings and you did not appeal any of them. Regarding your post-service diagnosis as being a paranoid schizophrenic, you provided no evidence to support it other than your statement. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. 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