



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

CRS
Docket No: 4666-08
5 November 2009

[REDACTED]

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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 16 October 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.

The Board found that you were commissioned as a warrant officer in the Marine Corps on 1 February 1993. A general court-martial convened on 13 July 2000 and found you guilty of willful disobedience of a lawful order, cruel and maltreatment of a junior enlisted service member, making a false official statement, and failure to obey a lawful order. The court sentenced you to a punitive letter of reprimand, restriction for 60 days, a fine of \$6000, and dismissal from the Marine Corps. On 17 July 2006 you were dismissed from the Marine Corps with the approval of the Secretary of the Navy.

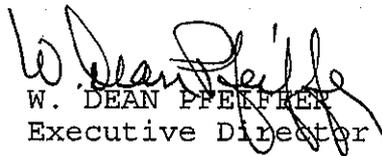
In its review of your application the Board carefully weighed all potentially mitigating factors, such as your alcohol abuse and overall record of service, as well as your contentions to the effect that the appellate courts which reviewed your conviction and sentence erroneously refused to reassess your sentence, and that you should be granted clemency based on your completion of almost nineteen years of service. The Board found those factors insufficient to warrant a recommendation to the Secretary of the Navy that your request for correction of your record be granted.

The Board concluded that the positive aspects of your career are outweighed by the serious nature of the offenses which resulted in your discharge, and that you have not demonstrated that clemency is warranted. In addition, it found that it cannot take any action that would disturb the finality of a conviction, and it was beyond its purview to, in effect, reverse legal determinations made in your case by appellate courts.

In view of the foregoing, 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