



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

TJR
Docket No: 5380-08
8 April 2009

[REDACTED]

[REDACTED]

This is in reference to your application for correction of 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 7 April 2009. The names and votes of the members of the panel will be furnished upon request. 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.

You enlisted in the Navy on 18 December 1978 at age 17 and served for nearly a year and seven months without disciplinary incident. However, during the period from 14 to 25 August 1980 you received nonjudicial punishment (NJP) on three occasions for two periods of unauthorized absence (UA) totalling 28 days, disrespect, two specifications of disobedience, absence from your appointed place of duty, and failure to cooperate.

On 26 August and again on 11 September 1981, you received NJP for a one day period of UA, two specifications of dereliction of duty, disobedience, and disrespect.

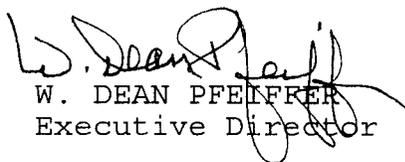
Subsequently, you were processed for an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 14 September 1981, after consulting with legal counsel, you waived your right to present your case to an administrative discharge board (ADB). On 15 September 1981 your commanding officer recommended discharge under other than honorable conditions by reason of

misconduct due to frequent involvement of a discreditable nature with military authorities as evidenced by five NJPs. On 22 September 1981 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 16 October 1981, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertions that you were not afforded certain rights, denied transfers, the subject of racism, and punished for not reporting the use of drugs. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in five NJPs. Further, you were given an opportunity to defend yourself and possibly obtain a better characterization of service, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you provided none, to support your assertions. Accordingly, your application has been denied.

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