



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

SMS
Docket No: 6026-08
26 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 25 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 23 June 1980, you enlisted in the Navy at age 24. During the period 14 to 21 March 1981, you were in an unauthorized absence (UA) status, but no disciplinary action was taken. On 4 May 1981, you began a 242 day period of UA that ended on 19 February 1982, when you were apprehended by civilian authorities and charged with receiving stolen property, forgery, and three instances of burglary. On 7 June 1982, you were convicted in civilian court of receiving an automobile, forgery, and three instances of burglary. You were sentenced to confinement and given credit for time served.

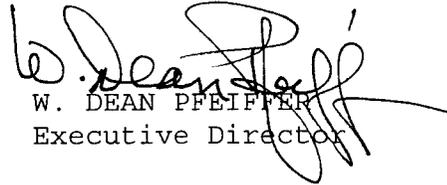
On 3 December 1982, your commanding officer initiated administrative separation by reason of misconduct due to a civil conviction. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 9 February 1983, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to a civil conviction. On 18 February 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your desire for a

better discharge. The Board also considered your explanation of events. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, your explanation of events does not excuse your misconduct and has no bearing on the offenses for which you were found guilty of in civilian court. 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