



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

SJN
Docket No: 06619-08
1 May 2009

[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 28 April 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 31 January 2002 at age 18. You served without incident for over four years until 24 February 2006, when you were arrested by civil authorities for domestic violence. On 15 March 2006, you pled "No Contest" to assault and domestic violence. The court sentenced you to probation, a fine, undergo a drug and alcohol assessment, and attend an Anger Management class.

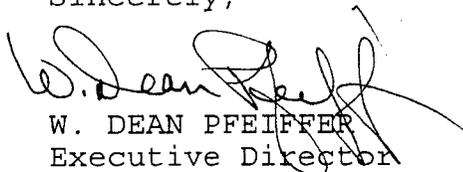
On 19 May 2006, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). Your commanding officer directed your separation, and on 26 May 2006 you received a general discharge. At that time, you were assigned an RE-4 reenlistment.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in the

reason for discharge or changing your reenlistment code, which were based on your civil conviction. In this regard, an RE-4 reenlistment code is required when an individual is discharged due to misconduct. The Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is separated for misconduct. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. 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