



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

TRG
Docket No: 6715-08
16 December 2008

[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 9 December 2008. 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.

You enlisted in the Navy on 14 June 1975 with prior service in the Army National Guard and served continuously on active duty after that. On 25 May 1989 and 1 March 1990 you received nonjudicial punishment for two instances of disobedience, conduct prejudicial to good order and discipline and making a false official statement.

On 9 January 1992 you were arrested by civil authorities. On 15 April 1992 you were convicted by civil authorities on three specifications of carnal knowledge and eight specifications of crimes against nature. The civil court sentenced you to 45 years of confinement and costs. 25 years of the confinement was suspended based on your good behavior.

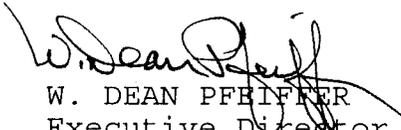
Based on your conviction by civil authorities, you were processed for an administrative separation from the Navy. An administrative discharge board met on 12 November 1992 and found that you had committed misconduct and recommended discharge under other than honorable conditions. After review, the discharge authority directed discharge under other than honorable conditions and you were so discharged on 11 January 1993. At that time, you had completed 17 years, 11 months and 4 days of active service.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your periods of honorable service and contentions, in effect, that it was improper to discharge you based on nonmilitary charges and conviction and since you have over 20 years of total service you should be eligible for some type of retirement. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your civil conviction for what appears to be very serious offenses. Further, it is clear that you could not continue in the Navy while you were incarcerated by civil authorities and it was proper to process you for discharge. 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 PFRIFFER
Executive Director