



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

SJN
Docket No: 06958-08
22 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 19 May 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 and began a period of active duty on 1 November 1972 at age 18. You served without incident until 8 August 1974, when you were arrested and charged with murder, and assault to commit murder. Subsequently, you were found guilty of those charges and sentenced to time in jail.

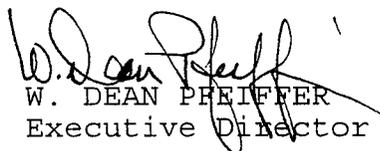
Based on this conviction you were processed for an administrative discharge by reason of misconduct due to civil conviction. On 6 May 1975, you were notified of this pending administrative separation action and elected to consult counsel and have your case heard by an administrative discharge board (ADB).

On 17 July 1975, an ADB found that you had committed misconduct due to civil conviction, and recommended that you receive an undesirable discharge. On 30 July 1975, your commanding officer forwarded your case to the discharge authority concurring with the findings and recommendations of the ADB. On 8 August 1975, the discharge authority directed that you receive an undesirable discharge due to civil conviction. You were so discharged on 5 September 1975.

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 found that these factors were not sufficient to warrant any change in your discharge given your civil conviction and ensuing incarceration for very serious offenses. 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