



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

CRS  
Docket No: 7087-08  
27 March 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 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.

The Board found that you enlisted in the Navy on 1 July 1988. On 5 March 2004 you were convicted by civil authorities of spousal assault, assault with deadly weapon, use of a deadly weapon, making a criminal threat, tampering with electric, telephone, and cable, and attempting to dissuade a witness. The court sentenced you to probation for five years and a fine of \$239 plus penalty assessment. On 24 January 2006 you received nonjudicial punishment for making a false statement to a senior chief that you did not alter and forge two leave and earnings statements for submission to the court presiding over your divorce proceedings.

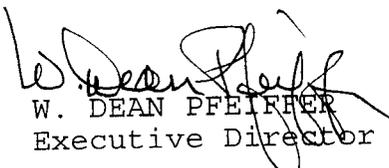
On 20 April 2006 an administrative discharge review board (ADB) recommended that you be separated with a discharge under other than honorable conditions by reason of misconduct due to the commission of a serious offense, and recommended that the execution of the discharge be suspended for six months. On 18 May 2006 your commanding officer disagreed with the suspension recommendation and forwarded the ADB decision via the Navy Personnel Command to the Secretary of the Navy, who directed that the discharge be executed. You were discharged under other than honorable conditions and assigned a reentry code of RE-4 on 30 June 2006. The Naval Discharge Review Board denied your request

for recharacterization of your service on 4 April 2008.

In its review of your application, the Board carefully considered your contentions to the effect that your discharge is wholly attributable to your divorce and the vindictive acts of your former spouse, that your discharge is unfair given your excellent record of service over the course of a lengthy career, and that you would have remained on active duty until you qualified for transfer to the Fleet Reserve but for the Secretary of the Navy's decision to overrule the ADB. The Board concluded that you committed significant acts of misconduct during your enlistment which far outweighed the positive aspects of your service, and warranted a discharge under other than honorable conditions. As you were discharged by reason of misconduct, the assignment of a reentry code of RE-4 was required. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge, 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