



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

TJR
Docket No: 7493-08
4 June 2009

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 2 June 2009. The names and votes of the members of the panel will be furnished upon request. 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 28 May 1981 at age 18 and served without disciplinary incident until 18 August 1983, when you received nonjudicial punishment (NJP) for disrespect. Shortly thereafter, on 23 August 1983, you received NJP for a four day period of unauthorized absence (UA).

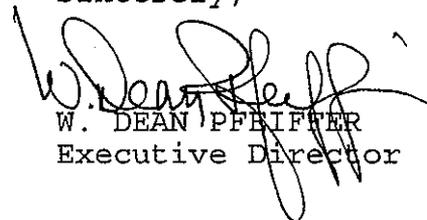
On 28 March 1984 you received NJP for a 10 day period of UA and missing the movement of your ship. The punishment imposed was a reduction to paygrade E-2, restriction for 60 days, and a \$200 forfeiture of pay. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. On 29 March 1984 you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Nonetheless, on 30 March 1984 you began another period of UA and on 30 April 1984 you were declared a deserter.

On 6 May 1984 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. This recommendation also noted your erratic performance, contemptuous attitude toward authority, and declining behavior. On 11 May 1984 the discharge authority approved this recommendation and directed your commanding officer to issue an other than honorable discharge by reason of misconduct. On 22 May 1984, while in absentia, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge so that you may obtain veterans' benefits. It also considered your assertion that you should have received a medical or psychiatric evaluation vice a bad discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in three NJPs. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, the Board noted that you were in a deserter status when discharged from the Navy. Accordingly, your application has been denied.

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