



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

SMS
Docket No: 8508-08
20 May 2009

[REDACTED]

[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.

On 31 October 1988, you enlisted in the Navy after a prior period of honorable service in the Navy Reserve. On 11 January 1991, you began an unauthorized absence (UA) that ended on 15 November 1991, a period of about four days. On 15 January 1991, you received a psychiatric evaluation during which time you threw yourself on the floor and threatened to commit suicide. You stated that you feared the consequences of going UA and would not be discharged from the Navy as soon as you hoped, and went UA because of occupational stress and fear of going to the Persian Gulf. The evaluation diagnosed you with an adjustment disorder, depressed mood and occupation problem, and as having passive aggressive and narcissistic traits. On 6 February 1991, you failed to comply with orders to report for a port call and began a UA that ended on 11 February 1991, a period of about five days. On 8 April 1991, you failed to comply with another set of orders and began another UA that ended on 13 May 1991, a period of

about five days. On 27 June 1991, a medical evaluation found that you were able to state and understand the charges and reasons for separation as well as the consequences of the discharge, and concluded that no psychiatric evaluation was warranted.

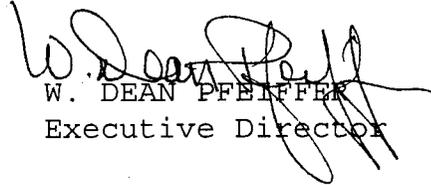
Based on the information currently contained in the record, it appears that you requested an other than honorable (OTH) discharge for the good of the service to avoid trial by court-martial for charges of UA and missing movement. At that time, you would have consulted with counsel and acknowledged the consequences of receiving such a discharge. Apparently, the separation authority approved your request for an OTH discharge for the good of the service to avoid trial by court-martial. On 19 July 1991, you were so discharged. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth and period of good service. The Board also considered your contention that there were unusual circumstances surrounding your absence and you were sexually assaulted, but no action was taken. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your repetitive misconduct. Regarding your contention, there is no evidence in the record to support it. The record does show that you received medical treatment on several occasions as a result of altercations with your boyfriend and husband, and you stated during the psychiatric evaluation that you went UA because you feared going to the Persian Gulf and had occupational stress. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. 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