



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

SJN  
Docket No: 10110-08  
2 September 2009

[REDACTED]

[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 25 August 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.

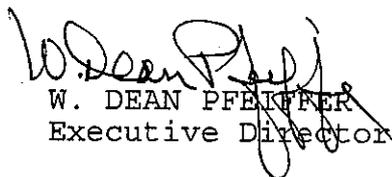
You enlisted in the Navy and began a period of active duty on 1 December 1977 at age 19. On 8 May 1978, you received nonjudicial punishment (NJP) for absence from your appointed place of duty. On 8 August 1979, you were convicted by special court-martial (SPCM) of four specifications of unauthorized absence (UA) totaling 30 days. On 17 August 1979, you were convicted by civil authorities of theft by writing 60 worthless checks. You were sentenced to 60 days of confinement, which was to be served on weekends, a fine, and probation. On 17 September 1979, as a result of violating your probation by not paying your fine and not reporting to jail, you were sentenced to one year in jail.

On 5 January 1981, you were processed for an administrative discharge under other than honorable (OTH) conditions by reason of misconduct due to civil conviction. You were notified of this pending administrative separation and waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). You received the OTH on 23 January 1981.

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 NJP, conviction by SPCM, civil conviction, and probation violation, which led to your ensuing incarceration for very serious offenses. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. 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