



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

CRS
Docket No: 10529-08
19 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 7 January 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 reenlisted in the Navy on 11 July 2003 for four years, which established your end of active obligated service date as 10 July 2007. Charges were preferred against you on 26 June 2007 for violations of articles 107, 108 and 121 of the Uniform Code of Military Justice. The charges related to the loss, sale and wrongful disposition of spent brass ammunition that was the military property of the United States. You were placed in a legal hold status on 2 July 2007 pending trial by court-martial. On 3 December 2007, the court suppressed a statement you had made to a Criminal Investigation Division investigator that was to the effect that the brass casings he observed in the trunk of your car at a metals recycling center were government property. The charges were withdrawn and dismissed on 13 December 2007.

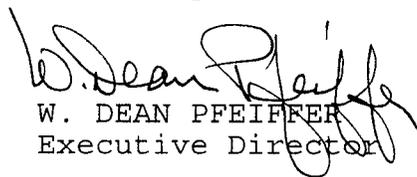
In correspondence dated 2 January 2008 your commanding officer recommended to the Navy Personnel Command that you not be permitted to reenlist because of your actions vis-à-vis the loss/theft of brass casings, which precluded you from performing your duties as a master-at-arms, and caused him to lose confidence in your ability to continue to serve on active duty. In a message dated 17 January 2008, the Commander, Navy Personal

Command (NPC) approved the denial of your request for reenlistment, and directed that you be discharged by reason of non-retention on active duty, and assigned a reentry code of RE-4. In your final evaluation report, dated 30 January 2008, you were not recommended for retention by your commanding officer. You were honorably discharged on 30 January 2008 and assigned a reentry code of RE-4 as directed by the Commander, NPC.

The dismissal of court-martial charges in your case did not amount to a finding of innocence, or mandate that you be permitted to reenlist. As you have not demonstrated that your reentry code was assigned in error or unjustly, the Board was unable to recommend any corrective action in your case. Accordingly, it denied your application. 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