



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

REC
Docket No: 11505-08
9 November 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 4 November 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.

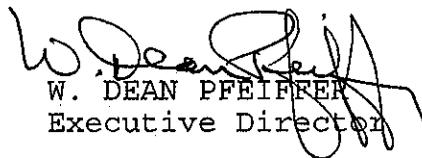
You enlisted in the Navy on 1 October 1974, and after approximately six years of service, received an honorable discharge. You continued your naval career and received a commission as an officer on 22 June 1983. On 20 December 1994, you received nonjudicial punishment (NJP) for posting an offensive electronic mail transmission on a government computer system which constituted conduct unbecoming an officer and a gentleman, and received a written reprimand. On 7 January 1997, you were convicted of committing a felony at a general court-martial (GCM) for five specifications of wrongfully and dishonorably purchasing books containing visual depictions of minors engaging in sexually explicit conduct, wrongfully purchasing video cassette tapes, receiving additional video tapes of minors engaging in sexually explicit conduct, and knowingly possessing this sexually explicit material that depicted minors engaging in sexual conduct. You were sentenced to a forfeiture of \$4,000, and to be dismissed from the service. However, the Secretary of the Navy remitted the dismissal on 8 February 1999. You submitted a request to retire at the next inferior pay grade of lieutenant in lieu of a Board of Inquiry, which was approved on 12 July 1999. You received an honorable discharge, however, the reason for separation was unacceptable conduct.

The duration of the impact of a felony conviction depends on the jurisdiction of conviction as well as the specific collateral consequence at issue. Many states have processes by which at least some of the rights lost through felony convictions are reinstated, automatically after some set period of time, or by going through an expungement process. Gubernatorial or presidential pardons usually, but not always, reinstate rights lost to a convicted felon. Therefore, it is recommended that you contact your State representative to inquire about the laws and processes required.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your supporting reference letters and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant reinstatement of your civil rights, given the record of your conviction by GCM for a very serious offense. 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