



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

CRS
Docket No: 12004-08
2 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 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 28 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 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 14 April 1989. You were absent without authority from 13 to 27 February 1994 and 10 June 1994 to 5 February 1997, and that each absence was terminated by apprehension. You were discharged for the good of the service in lieu of trial by court-martial on 7 March 1997, with a discharge under other than honorable conditions. Although the discharge processing documents are not filed in your record, the Board presumed that you requested discharge in lieu of trial by court-martial for an extended period of unauthorized absence.

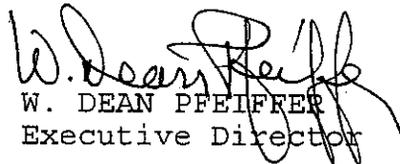
The Board did not accept your contention to the effect that you were improperly held on active duty beyond the expiration of your active obligated service date. In this regard, it noted that your original active obligated service date was properly extended due to the time lost you incurred as a result of your unauthorized absences.

The Board concluded that your service was properly characterized as under other than honorable conditions, and that it would not be in the interest of justice for it to upgrade your discharge. It believes that considerable clemency was extended to you when your request for discharge was approved since, by that action, you avoided the likelihood of a Federal conviction, confinement at hard labor and a punitive discharge. Further, the Board

concluded that you received the benefit of your bargain when your request for discharge was granted, and that you should not be permitted to change it at this time. 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