



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

TRG
Docket No: 2321-08
18 November 2008

[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 13 November 2008. 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.

You enlisted in the Navy on 23 June 1982 at age 18. During the period from 18 May 1985 to 2 September 1985, you received nonjudicial punishment on two occasions and were convicted by a summary court-martial. Your offenses were three instances of disrespect, disobedience, breach of the peace, conspiracy to provide a false statement, absence from your appointed place of duty and willful damaging of government property. Based on the foregoing record, you were processed for an administrative discharge. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board. After review, the separation authority approved your discharge under other than honorable conditions for misconduct. On 7 September 1985, you received another NJP for failing to go to your appointed place of duty and disobedience. The discharge under other than honorable conditions was issued on 4 October 1985.

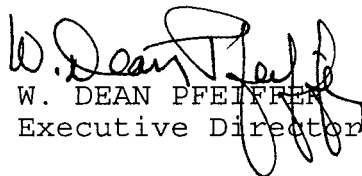
In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, initial period of good service and your contention that you did not contest the discharge because you were told that it would be automatically upgraded in six months. The Board found that these

factors and contention were not sufficient to warrant recharacterization of your discharge given the frequency of your misconduct. There is no provision in the law or regulations which would allow for recharacterization of a discharge based solely on the passage of a period of time. The Board concluded that the discharge was proper as issued and no change is warranted.

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