



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

TJR
Docket No: 3294-08
19 February 2009



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 18 February 2009. The names and votes of the members of the panel will be furnished upon request. 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 28 September 1987 at age 18. You served for nearly a year without disciplinary incident but on 22 September and again on 28 October 1988 you received nonjudicial punishment (NJP) for two specifications of failure to obey a lawful order.

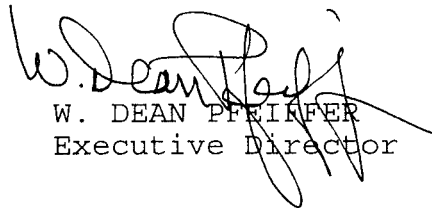
On 28 July 1989 you were convicted by special court-martial (SPCM) of a 30 day period of unauthorized absence (UA). You were sentenced to reduction to paygrade E-1, a \$235 forfeiture of pay, and confinement at hard labor for 30 days.

Subsequently, you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. After waiving your right to consult with legal counsel and to present your case to an administrative discharge board (ADB), the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 13 November 1989, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in two NJPs and a court-martial conviction. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Accordingly, your application has been denied.

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