



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

CRS
Docket No: 5214-08
29 September 2009

[REDACTED]

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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 23 September 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 enlisted in the Navy on 26 March 1990. You received nonjudicial punishment and were convicted by a summary and special courts-martial for offenses that included striking and biting another military member, unlawfully entering a dwelling of another on two occasions, willful disobedience of a lawful order from a first class petty officer, and striking another member in the face with your fist.

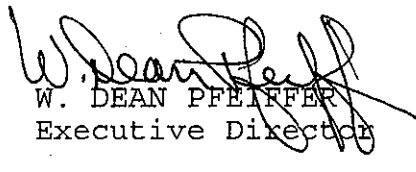
On 6 April 1992 your commanding officer recommended that you be separated from the Navy with a discharge under other than honorable conditions by reason of misconduct due to the commission of a serious offense. After being informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. The recommendation was approved by the separation authority, and you were discharged under other than honorable conditions on 29 May 1992 and assigned a reentry code of RE-4.

The Board carefully considered your contention to the effect that your reentry code should be corrected because the offense of the

willful disobedience of the lawful order of a first class petty officer was erroneously listed in the recommendation for discharge as a violation of Article 128, UCMJ. The Board concluded that the erroneous entry did not mislead you or the separation authority, and that it had no effect on the ultimate disposition of your case. In addition, the Board noted that a reentry code of RE-4 is required when an individual is discharged by reason of misconduct. 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