



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

CRS
Docket No: 1197-09
29 September 2009

[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 5 August 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 reported to active duty as a commissioned officer on 9 October 1991. On 12 August 1994 your commanding officer recommended that you be separated with a discharge under other than honorable conditions due to an assault on your wife consummated with battery and conduct unbecoming an officer and gentleman, as evidenced by incidents of spouse abuse. In addition, a Family Advocacy Case Review Committee on 14 June 1994 substantiated spouse abuse. Subsequently, a Board of Inquiry (BOI) agreed with the recommendation as well as finding you substandard in the performance of your duties. The BOI recommended an honorable discharge by reason of misconduct. On 7 August 1995 the Navy Personnel Command concurred with the recommendation and forwarded it to the Secretary of the Navy where he approved the recommendation on 31 August 1995. On 31 October 1995 you received an honorable discharge by reason of misconduct.

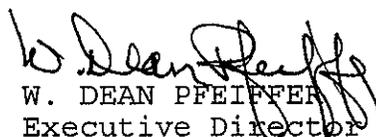
In its review of your application the Board carefully considered your contention that you did not assault your wife and that the charges were the result of a language problem between your wife and the authorities. It found this contention to be

unsubstantiated. Accordingly, and you have not demonstrated that it would be in the interest of justice for the Board to change the reason for your discharge from misconduct to "neutral" as a matter of clemency, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Concerning your request about your reentry code of RE-4, the Navy Personnel Command has previously taken action to delete it from your record since officers are not assigned reentry codes.

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