



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

BAN
Docket No: 1495-09
17 November 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, 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 12 November 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 6 February 1991, and served without disciplinary incident until 7 October 1992, when you received nonjudicial punishment (NJP) for unauthorized absence (UA) and failure to obey a lawful order.

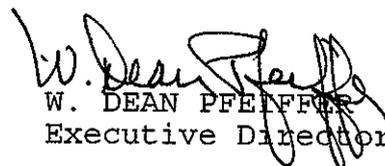
Shortly thereafter, you received the following disciplinary actions: on 11 May 1993, you received an NJP for UA; and on 21 November 1993, you were convicted at a special court-martial (SPCM) for UA in excess of one and one-half months. Therefore, you were recommended for separation with an other than honorable (OTH) discharge due to your misconduct and conviction at a SPCM. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). The separation authority approved the recommendation and on 4 March 1994, you were separated with an OTH discharge and an RE-4 reenlistment

code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, the passage of time and the unfortunate death of your mother. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to your misconduct. Finally, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. The Board noted you waived your right to an ADB, your best opportunity for retention or a better characterization of service. 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