



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

TJR
Docket No: 1634-09
18 November 2009

[REDACTED]

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 17 November 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 18 July 1983 at age 18. You served without disciplinary incident until 30 January 1984, when you received nonjudicial punishment (NJP) for failure to obey a lawful order. On 3 and 17 April 1985 you received NJP for disrespect, three specifications of disobedience, making a false official statement, three specifications of dereliction of duty, and two periods of failure to go to your appointed place of duty. On 5 May 1975 you were convicted by summary court-martial (SCM) of disrespect and disobedience, and sentenced to restriction for 45 days and a \$300 forfeiture of pay.

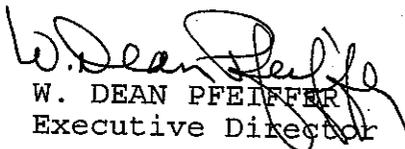
On 15 May 1985 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and a pattern of misconduct. After consulting with legal counsel, you waived your right to present your case to an

administrative discharge board (ADB) but submitted a written request for a general discharge. On 17 May 1985 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and a pattern of misconduct. On 25 May 1985 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 7 June 1985, 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, letter of explanation regarding your discharge, 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 three NJPs and a court-martial conviction. 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