



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

BAN
Docket No: 2683-09
7 December 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 2 December 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.

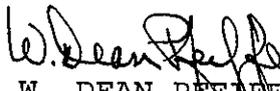
You enlisted in the Navy on 25 July 2001, and served without disciplinary incident. However, you were recommended for separation due to a commission of a serious offense.¹ You waived all of your procedural rights, to include your right to an administrative discharge board (ADB). The separation authority approved the request and on 24 March 2006, you were separated with a general discharge and an RE-4 reenlistment code.

¹ Pursuant to the Military Personnel Manual (MILPERSMAN) 1910-142, Separation by Reason of Misconduct - Commission of A Serious Offense, a commission of a serious offense does not require adjudication by nonjudicial or judicial proceedings; however, an offense must be substantiated by a preponderance of evidence (e.g., Naval Criminal Investigative Service (NCIS) investigation, etc.).

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to your separation code and the reason for your discharge based on your serious misconduct. Further, your commanding officer was within his authority to separate you based on the NCIS investigation and your admission that you were the "look-out" for the principal actor who perpetrated a crime against other Sailors within the bachelor enlisted quarters. Furthermore, the Board found 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