



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

TAL

Docket No: 02963-09
8 January 2010

[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 16 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.

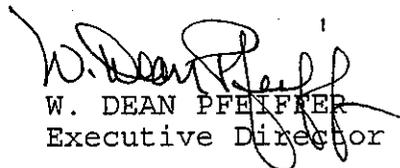
You enlisted in the Navy and began a period of active duty on 10 September 1980 at age 18. On 22 October 1981, you received nonjudicial punishment (NJP) for assault and a six day period of unauthorized absence (UA) from your unit. On 18 January 1984, you received NJP for failure to obey a lawful order and UA from your appointed place of duty. On 7 March 1984, you received NJP for two instances of disrespect to a petty officer. You were then counseled and warned that further misconduct could result in administrative separation. On 14 March 1984, you received NJP for disrespect to a petty officer, assault and failure to obey a lawful order. On 3 April 1984, you received NJP for four instances of failure to obey a lawful order. On 15 March 1984, you were notified of a proposed administrative discharge under other than honorable (OTH) conditions by reason of misconduct due to frequent involvement of a discreditable nature with civil or military authorities. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 29 March 1984, your commanding officer forwarded his recommendation that you be discharged under OTH conditions by reason of misconduct. On 11 April 1984, the

separation authority directed an OTH discharge by reason of misconduct. On 23 April 1984 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of five NJP's, three of which were imposed after you were counseled and warned of the consequences of further misconduct. Finally, the Board noted that you waived the 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