



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

SJN
Docket No: 03279-09
22 February 2010

[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 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 17 February 2010. 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.

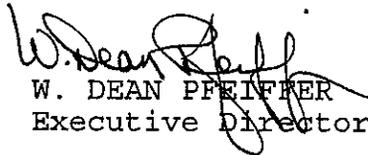
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 1 February 1989 at age 19. On 21 June 1989, you entered an unauthorized absence (UA) status and were declared a deserter on 20 July 1989. On 17 October 1989, while still in a UA status, you were apprehended by civil authorities and charged with first degree murder and robbery. Subsequently, you were found guilty of those charges and sentenced to 26 years to life in prison. On 22 April 1991, administrative discharge action was initiated to separate you by reason of misconduct due to civil conviction. You elected to consult counsel and have your case heard before an administrative discharge board (ADB). On 15 May 1991, an ADB unanimously recommended separation with an other than honorable discharge by reason of misconduct due to civil conviction. On 13 June 1991, your commanding officer concurred with the ADB's findings and forwarded his recommendation that you be discharged. On 21 October 1991, the separation authority directed an other than honorable discharge by reason of misconduct due to civil conviction. On 30 October 1991 you were so discharged. At the time, you were assigned an RE-4 reenlistment code.

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 concluded these factors were not sufficient to warrant a change in the reason or characterization of your discharge, or your reenlistment code, given your civil conviction and ensuing incarceration for very serious offenses. In this regard, an RE-4 reenlistment code is required when a Sailor is discharged due to misconduct. 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