



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

TAL  
Docket No: 3401-09  
19 March 2010



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 10 March 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.

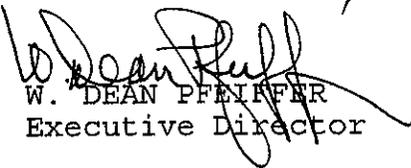
You enlisted in the Navy and began a period of active duty on 22 August 2000 at age 19. On 10 December 2003, you received nonjudicial punishment (NJP) for assault and communicating a threat. On 7 December 2006, you were to be taken to NJP for failure to obey a regulation by fraternizing in a school environment. You refused NJP and requested a court-martial. Your command did not pursue the court-martial but opted instead for an administrative discharge. On 12 January 2007, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You did elect to consult counsel and submit a written statement. On 19 January 2007, the commanding officer forwarded his recommendation for separation, and on 2 February 2007 the discharge authority directed that you be separated for misconduct with a general discharge.

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 the seriousness of your misconduct. The Board also believed that you were fortunate to receive a general discharge since a characterization under other than honorable conditions is often directed when a Sailor is separated for 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