



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

BAN
Docket No: 09392-09
7 July 2010

[REDACTED]

[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 1 July 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.

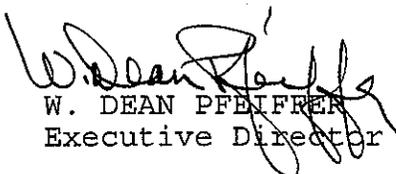
You entered active duty in the Navy on 16 July 2002, and served without disciplinary incident until 23 November 2003, when you received nonjudicial punishment (NJP) for two specifications of failure to obey a lawful order. Shortly thereafter, you received another NJP for using a government computer for downloading sexually explicit material, and communicating indecent language in writing to a petty officer on a government computer. Therefore, you were recommended for separation with a general discharge due to your misconduct. You waived your rights to consult with counsel, and request an administrative discharge board (ADB). The separation authority approved the recommendation and on 23 March 2004, you were separated with a general discharge and an RE-4 reenlistment code.

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 recharacterization of your discharge because of your misconduct. The Board found that you waived our procedural 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