



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

BJG
Docket No: 10388-09
29 June 2010



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 29 June 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.

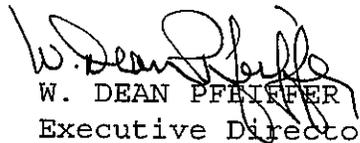
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board found that you entered active duty in the Navy on 3 February 1986. You received nonjudicial punishment on eight occasions for unauthorized absence (seven specifications totaling 10 days), failure to obey a lawful order (six specifications), larceny, disorderly conduct (two specifications), and willfully disobeying a lawful order (two specifications). You were counseled on five occasions and warned that further misconduct could result in administrative separation. On 20 October 1989, you were notified that your commanding officer was recommending you for administrative

separation with an other than honorable (OTH) discharge due to misconduct. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 19 December 1989, you received an OTH discharge due to misconduct, and were assigned an RE-4 reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth, and belief that your discharge would be upgraded after three years. However, the Board concluded that your OTH discharge should not be changed due to your numerous acts of misconduct which continued even after you were counseled. The Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. You are advised that there is no provision of law or in naval regulations that allow for an upgrade of a discharge due merely to the passage of time. In view of the above, 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