



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

TJR
Docket No: 1536-10
20 October 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 13 October 2010. The names and votes of the members of the panel will be furnished upon request. 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 on 26 August 1988 at age 19 and served without disciplinary incident until 2 November 1989, when you received nonjudicial punishment (NJP) for damaging government property.

During the period from 17 January to 19 October 1990, you received NJP on four more occasions for absence from your appointed place of duty, disobedience, dereliction of duty, assault, assault with a knife, failure to go to your appointed place of duty, and failure to obey a lawful order. You were also counselled on two occasions and warned that further deficiencies could result in administrative separation.

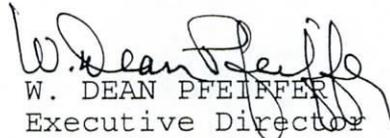
On 7 March 1991 you received your sixth NJP for attempted assault, two specifications of assault consummated by battery, and disorderly conduct. Shortly thereafter, you were notified of administrative separation by reason of misconduct due to a pattern of misconduct, and waived your procedural right to consult with legal counsel and to present your case to an

administrative discharge board (ADB). As a result of this action, on 1 May 1991, you were issued an other than honorable discharge by reason of misconduct due to a pattern of misconduct and were assigned 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 and desire to change your reenlistment code which would give you're the opportunity to join the National Guard. Nevertheless, the Board concluded these factors were not sufficient to warrant a change of your reenlistment code because of the seriousness of your repetitive misconduct which resulted in six NJPs and discharge under other than honorable conditions. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Finally, an RE-4 reenlistment code is required when a Sailor is discharged by reason of misconduct. Accordingly, your application has been denied.

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