



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

TAL
Docket No: 4633-10
31 January 2011



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 26 January 2011. 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 reenlisted in the Navy on 6 April 1981 after more than two years of prior honorable service. On 3 August 1983 you were convicted by special court-martial (SPCM) of larceny of an automobile stereo and cassette player, a value of \$200, and unlawful entry. The sentence imposed was three months confinement, reduction in paygrade and a bad conduct discharge (BCD). The convening authority did not approve the BCD. You were notified of pending administrative discharge processing 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 23 November 1983 you received the OTH discharge for misconduct due to commission of a serious offense, and were assigned an RE-4 reenlistment code.

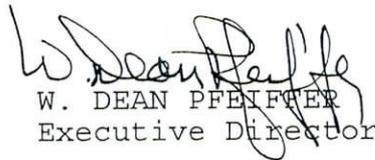
The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, your overall last record of service and the character letters accompanying your application. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in a SPCM. The Board noted that

you waived your 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.

The Board believes that you may be eligible for veterans' benefits which accrued during your prior period of honorable service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (DVA). In this regard, you should contact the nearest DVA office concerning your rights, specifically, whether or not you are eligible for benefits based on this period of service.

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