



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

RDZ:ecb
Docket No. 07721-10
5 November 2010

[REDACTED]

[REDACTED]

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 4 November 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.

Your record shows that you served on active duty in the Navy from 5 April 1993 to 24 June 1997 and again from 25 June 1997 to 6 June 2001. You received an honorable discharge for each of these periods of service. You reenlisted on 7 June 2001 for a term of six years. Unfortunately you only served a little less than two years and seven months and you were discharged with an other than honorable discharge (OTH) due to misconduct. Specifically between January and December of 2003 you received nonjudicial punishment on five occasions. Your offenses consisted of being disrespectful to a superior noncommissioned officer, physically assaulting a subordinate on two occasions, drunk driving and being incapacitated for duty by

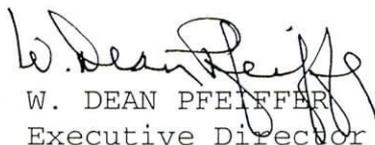
excessive consumption of alcohol. Based on this record of misconduct your commanding officer recommended that you be separated with an OTH. After being informed of your commanding officer's recommendation you waived your right to an administrative discharge board (ADB) where with the assistance of a military lawyer you could have requested retention or a better discharge. Consequently you were issued an OTH on 3 January 2004.

In its review of your case the Board concluded that in view of the frequency and seriousness of your misconduct your discharge was proper as issued and should not be changed now as a matter of clemency. The Board particularly took into account that when you committed your misconduct you were an experienced 27 year old noncommissioned officer who should have been setting an example for the junior enlisted personnel serving under you rather than abusing the authority entrusted to you. The Board also noted your apparent willingness to accept an OTH rather than try to serve out your enlistment as evidenced by your waiver of an ADB.

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

Enclosure