



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD SUITE 1001
ARLINGTON VA 22204-2490

BAN
Docket No: 04567-11
28 February 2012



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 15 February 2012. 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.

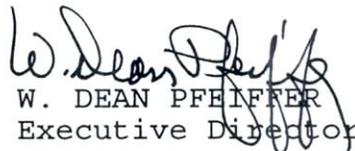
You entered active duty service in the Navy on 17 November 1990, and served without disciplinary incident until 30 October 2009, when you were convicted at a special court-martial of two specifications of failure to obey a lawful order, two specifications of dereliction of duty, two specifications of maltreatment of subordinates, making a false official statement, two specifications of misbehavior of a sentinel, and two specifications of adultery. You were sentenced to 30 days confinement and reduced in rank to pay grade E-6. You were recommended for separation with an other than honorable (OTH) discharge due to misconduct. You exercised your right to consult with counsel but waived your right to an administrative discharge board (ADB). Therefore, on 23 March 2010, the Chief of Naval Personnel directed the separation due to your misconduct, and on 9 April 2010, you were separated with an OTH discharge and an RE-

4 reentry code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service of 19 years and 4 months, remorsefulness, and belief that your punishment was too harsh. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to your record showing that you completed 20 years of service so that you could receive retirement benefits. Additionally, the Board noted you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Finally, the Board concluded that your punishment was not too harsh in light of the serious nature of your misconduct. 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