



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

SMW
Docket No: 8067-06
5 April 2007

[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 April 2007. 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.

On 7 September 2000 you enlisted in the Navy at age 22. You then served without incident until 13 March 2003, when you received nonjudicial punishment (NJP) for disobedience of a lawful order. You were counseled on that same date regarding deficiencies in your performance and conduct, and warned that further infractions could result in disciplinary action or administrative separation. However, during the period from 7 May to 5 June 2003 you received three more NJP's. Your offenses included three instances of disobedience of a lawful order, wrongful appropriation and an unspecified period of unauthorized absence (UA). Suspended punishment from the earlier NJP was also vacated due to your continued misconduct.

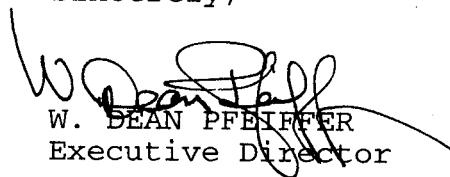
On 6 June 2003 your commanding officer (CO) initiated administrative separation action by reason of misconduct due to commission of a serious offense and a pattern of misconduct. In connection with this processing, you acknowledged that separation could result in an other than honorable discharge and waived the right to have your case heard by an administrative discharge

board (ADB). On 16 June 2003 the separation authority directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 26 June 2003 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the period of good service. The Board also considered your contention that your discharge should be upgraded because the Veterans' Administration has classified the discharge as honorable. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your repetitive misconduct. Regarding your contention, any action taken by the Veterans' Administration is not binding on the Navy and does not constitute recharacterization of your service. Finally, the Board noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted.

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