



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TAL

Docket No: 12353-08

30 October 2009

[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 21 October 2009. 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.

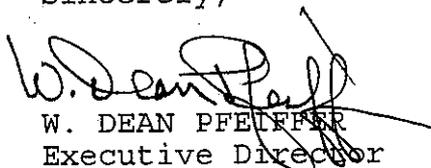
You enlisted in the Navy and began a period of active duty on 23 September 1991 at age 19. On 11 September 1992, you received nonjudicial punishment (NJP) for assault consummated by a battery. On 11 September 1992, you were notified of a pending administrative separation action by reason of misconduct due to commission of a serious offense. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 4 November 1992, an ADB unanimously found that you had committed misconduct due to commission of a serious offense and recommended discharge under other than honorable (OTH) conditions. Subsequently, your commanding officer concurred with the ADB and forwarded your case to the discharge authority for review. On 28 December 1992, the discharge authority directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 20 January 1993 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that

these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness 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 PFETFFER  
Executive Director