



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

SJN
Docket No: 12426-09
11 December 2009

[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 8 December 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.

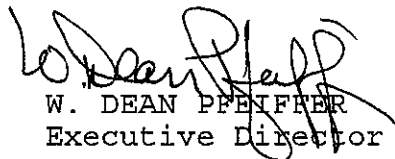
You enlisted in the Navy and began a period of active duty on 9 August 1984 at age 19. On 30 August 1985, you received nonjudicial punishment (NJP) for one day of unauthorized absence (UA). On 9 December 1986, you were convicted by special court-martial (SPCM) of four periods of UA totaling 122 days and breaking restriction. You were sentenced to confinement at hard labor, a forfeiture of pay, reduction in paygrade, and a bad conduct discharge (BCD). However, the BCD was suspended for a period of 12 months. On 4 January 1987, you received NJP for two periods of UA totaling seven days. You were counseled and warned that further misconduct could result in administrative discharge action. On 4 March 1987, you were convicted by civil authorities of two counts of attempted armed robbery. On 26 March 1987, you received a third NJP for two instances of UA totaling nine days, disrespect, and communicating a threat. On 2 May 1987, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 18 May 1987, your commanding officer forwarded his recommendation

that you be discharged under other than honorable conditions by reason of misconduct. On 12 August 1987, the discharge authority directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 3 September 1987 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record, and post service medical issues. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your three NJP's, SPCM, and conviction by civilian authorities for serious offenses. Finally, the Board noted that you waived the right to an ADB, your best chance 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.

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 PFENFFER
Executive Director