



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

TJR
Docket No: 3818-07
15 February 2008

[REDACTED]

[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 12 February 2008. 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 on 30 July 1999 at age 19 and served for nearly two years without disciplinary incident, but on 13 March 2002 you received nonjudicial punishment (NJP) for making a false office statement and forgery. About a year later, on 1 July 2003, you received NJP for making a false official statement and larceny.

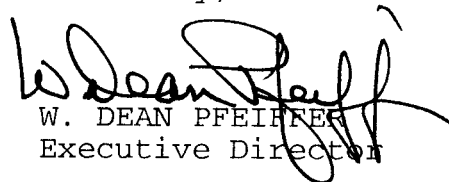
On 7 July 2003 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended a general discharge by reason of misconduct due to commission of a serious offense. This recommendation also stated, in part, that you had no place in the Navy, could not be trusted, and your conduct was not in keeping with Navy core values. The discharge authority approved this recommendation and directed separation under honorable conditions, and on 29 July 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 assertion that you were told that your discharge would be automatically upgraded six months after your separation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which resulted in two NJPs. Further, no discharge is automatically upgraded due solely to the passage of time. Finally, Sailors discharged by reason of misconduct normally receive discharges under other than honorable conditions, so the Board concluded you were fortunate to receive a general discharge. 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