



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

SMW
Docket No: 7445-07
24 April 2008

[REDACTED]

[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 23 April 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.

On 20 April 1989, you enlisted in the Navy at age 21. On 14 December 1989, you had nonjudicial punishment (NJP) for larceny of government property, specifically, a 35mm camera. You were also counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 5 February and 11 April 1990, you had NJP for two instances of failure to go to your appointed place of duty, three instances of breaking restriction, two instances of disobedience of a lawful order, making a false official statement, and wrongfully obtaining telephone services during the period 1 October to 19 November 1989, of a total value of \$1,369.20.

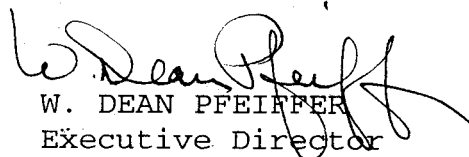
On 12 April 1990, your commanding officer initiated administrative separation by reason of misconduct due to commission of a serious offense and a pattern of misconduct.

In connection with this processing, you acknowledged that separation could result in an OTH discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 23 April 1990, the separation authority approved the separation recommendation and directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 14 May 1990, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, regret for your misconduct, and desire for a better discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even after you were counseled and warned of the consequences of further infractions. 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