



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

TJR  
Docket No: 8138-07  
8 October 2008

[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 7 October 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 9 January 1989 at age 17 and served without disciplinary incident until 18 October 1989, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and dereliction of duty. The punishment imposed was restriction for 30 days, a \$391.50 forfeiture of pay, and reduction to paygrade E-1, which was suspended for six months.

On 14 March 1990 you received NJP for absence from your appointed place of duty and were awarded restriction and extra duty for 45 days and forfeiture of half your pay. The suspended reduction to paygrade E-1 was also vacated at that time. On 1 October 1990 you were convicted by summary court-martial (SCM) of absence from your appointed place of duty and uttering a worthless check. You were sentenced to confinement for 25 days and a \$250 forfeiture of pay, which was suspended for six months.

On 11 April 1991 you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for two periods of absence from your appointed place of duty, two specifications of failure to obey a lawful order by allowing a female civilian to live in the barracks, being out of uniform, two specifications of wrongful possession of dangerous weapons, specifically, a machete and a knife with a six inch blade, and two specifications of uttering worthless checks totalling \$58.24. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 29 April 1991 your request was granted and your commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 30 April 1991 you were issued an other than honorable discharged.

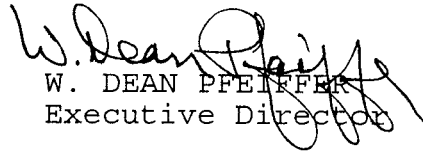
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and assertion that your punishment was too harsh. It also considered your assertion that the mistakes you made while serving in the Navy should not hold you back for the rest of your life. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent and repetitive misconduct and your request for discharge to avoid trial by court-martial for these offenses. Further, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Finally, the Board concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. 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