



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

TJR
Docket No: 9396-07
6 November 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 5 November 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 2 January 1990 at age 29 and served without disciplinary incident until 19 October 1990, when you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty. Shortly thereafter, on 9 November 1990, you received NJP for absence from your appointed place of duty and disobedience.

On 3 August 1991 you received your third NJP for a 90 day period of unauthorized absence (UA) and missing the movement of your ship. About four months later, on 13 December 1991, you were convicted by special court-martial (SPCM) of two specifications of disobedience, disrespect, assault, and communicating a threat. You were sentenced to confinement at hard labor for 110 days, a \$2,400 forfeiture of pay, reduction to paygrade E-1, and a bad conduct discharge (BCD). Subsequently, you submitted a written request for clemency and restoration to duty. However, this request was denied, the BCD was approved at all levels of review, and on 10 August 1991 you were so discharged.

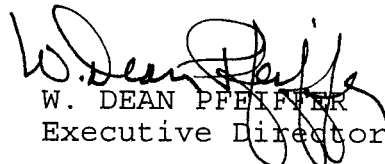
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your request for administrative corrections to your Certificate of Discharge or Release from Active Duty (DD Form 214). Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive and frequent misconduct which resulted in three NJPs and a court-martial conviction. Accordingly, your application has been denied.

You should contact the Department of the Navy, Navy Personnel Command (BUPERS), Sailor Assistance Center, Code Pers-312F, 5720 Integrity Drive, Millington, TN 38055-3120 to request administrative corrections on your DD Form 214.

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