



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

TJR
Docket No: 2464-08
5 February 2009



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 3 February 2009. The names and votes of the members of the panel will be furnished upon request. 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 26 July 1993 at age 19 and served without disciplinary incident until 23 November 1994, when you received nonjudicial punishment (NJP) for disobedience and two specifications of disrespect. About four months later, on 1 March 1995, you received NJP for absence from your appointed place of duty, dereliction of duty, and being drunk on duty.

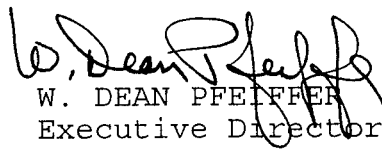
On 3 March 1995, following a psychiatric evaluation, you were diagnosed with a bipolar disorder and treated with lithium. On 11 May 1995 you received your third NJP for unlawful entry and wrongful theft and distribution of a prescription drug, specifically, Clonazepam. On 18 May 1995 you received NJP for making a false official statement, absence from your appointed place of duty, and three specifications of failure to obey a lawful order.

On 12 June 1995 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense, a pattern of misconduct, and drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Shortly thereafter, your commanding officer recommended an other than honorable discharge by reason of misconduct due to commission of a serious offense, a pattern of misconduct, and drug abuse. The discharge authority approved this recommendation, and on 6 September 1995, 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 assertions of being falsely accused of theft, not being afforded legal representation, and being heavily sedated when processed for separation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in four NJPs and included drug and alcohol abuse. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Accordingly, your application has been denied.

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