



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

SMS
Docket No: 5965-08
26 February 2009

[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 25 February 2009. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

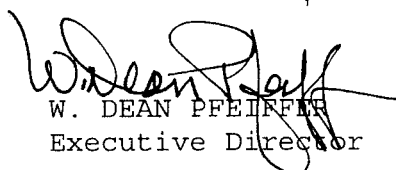
On 23 January 1987, you enlisted in the Navy at age 19. On 3 November 1987, you received medical treatment during which you stated that you had been assaulted by a shipmate. The medical treatment entry indicates that you received treatment for pain to your forehead and human bite marks on your back. During the period 12 February to 25 April 1988, you were in an unauthorized absence (UA) status on three occasions totaling about 68 days. On 6 May 1988, you were convicted by a summary court-martial of the three instances of UA totaling 68 days and two instances of assault that occurred on 3 November 1987. On 22 June 1988, you had nonjudicial punishment for three brief instances of UA that totaled about two days.

On 29 June 1988, your commanding officer initiated administrative separation by reason of misconduct due to commission of a serious offense. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 23 July 1988, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of commission of a serious offense. On 29 July 1988, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and desire for a better discharge. The Board also considered your explanation of events. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, the Board found that your explanation of events does not excuse your misconduct. The Board also 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