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

TRG
Docket No: 8574-08
4 March 2009

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 18 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.

You enlisted in the Navy on 22 December 1997 at age 18. Subsequently, you completed initial training and on 2 March 1999 you reported to your first duty station. The documentation to support your discharge processing is not filed in your service record. However, the record shows that on 28 June 1999 you were separated with a general discharge by reason of a diagnosed personality disorder and were assigned an RE-4 reenlistment code.

In support of your case, you have submitted a psychiatric evaluation performed by a Navy Reserve psychiatrist in December 2000. He concluded that you did not have a personality disorder but possibly an adjustment disorder. You have also submitted a statement from your former commanding officer who points out that the ship was in dry dock and living conditions were difficult. These conditions caused several sailors to refer themselves for a psychiatric evaluation which resulted in 10 sailors being discharged. He believes that these Sailors acted rashly due to the unfavorable environment and they did not have any significant psychological problems that would preclude Navy service. He states that you admitted that you had fabricated maladies in order to get off the ship and out of the Navy. However, after talking to you he has no reservations about recommending a change in the reenlistment code.
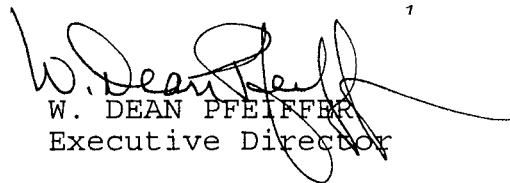
The Board is aware that a personality disorder may only become manifest when an individual is under stress and you were not under stress at the time of the evaluation after your discharge or in your discussions with your former commanding officer. Further, it is well settled in the law that an individual who perpetrates a fraud in order to be discharged should not benefit from it when it is discovered. Although the separation documentation is not available, the Board assumed that you were properly diagnosed with a personality disorder and discharged. Further, there must have been some unknown negative factor which resulted in the issuance of a general rather than an honorable discharge. The Board concluded that the RE-4 reenlistment code was properly assigned 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.

The Board is prohibited by law from reviewing characterization of service and reason for discharge of individuals discharged less than 15 years ago unless those issues have been considered and denied by the Naval Discharge Review Board.

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