



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

CRS
Docket No: 10565-08
24 March 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.

The Board found that you entered into a pre-trial agreement on 15 December 2006 in which you agreed to accept nonjudicial punishment provided that the convening authority withdrew and dismissed similar charges that had been preferred against you and referred to a special court-martial. On 4 January 2007 you received nonjudicial punishment for wrongfully using blue lights on the dashboard of your car in violation a Florida statute that had been assimilated into federal law; wrongfully impersonating and asserting the authority of a law enforcement official by using flashing or rotating blue lights on your non-governmentally owned vehicle to stop another motorist on a naval station; and wrongfully impersonating and asserting the authority of a law enforcement official by using flashing or rotating blue lights on your non-governmentally owned vehicle to stop another motorist on an interstate highway. The punishment consisted of a punitive letter of reprimand and reduction in rate, which was suspended.

The Board did not accept your unsubstantiated contention to the effect that you agreed to accept nonjudicial punishment because you had been led to believe that the punishment would be set-aside. The Board concluded that your commanding officer acted reasonably in your case, and that he was in the best position to


resolve the factual issues and to impose appropriate punishment. There is no credible evidence that you did not commit the charged offenses. In addition, the Board noted that you received a substantial benefit by accepting the nonjudicial punishment, as you avoided the possibility of a conviction by court-martial, confinement at hard labor and punitive separation from the Navy.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider your request for removal of a "Form 83 CSF" from your record because no such document is filed in your official military personnel file.

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