



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

TJR
Docket No: 1750-09
11 January 2010

[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 6 January 2010. 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 25 November 1977 at age 17. You served for a year and eight months without disciplinary incident but on 2 and 16 July 1979 you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty, failure to obey a lawful order, and sleeping on watch.

During the period from 26 April to 18 September 1980 you received NJP on three more occasions for failure to go to your appointed place of duty, three periods of absence from your appointed place of duty, and assault.

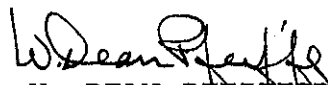
On 29 September and 24 November 1981 you received NJP for absence from your appointed place of duty, sleeping on watch, and other unspecified offenses. On 23 February 1982 you were convicted by special court-martial (SPCM). However, the record does not reflect the offenses for which you were found guilty or the sentence of the SPCM.

On 2 September 1982, upon completion of your required active service, you were released from active duty under honorable conditions. On 10 December 1983, at the expiration of your enlistment, you were erroneously issued an honorable discharge certificate.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade the characterization of your release from active duty, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your separation because of the seriousness of your repetitive misconduct which resulted in seven NJPs and a SPCM. Further, the Board noted that your record incorrectly reflects an honorable characterization of service at the time of your discharge and concluded that the release from active duty was proper in spite of this error. Finally, Sailors with an extensive record of misconduct, such as yours, normally receive discharges under other than honorable conditions, and as such the Board noted that you were fortunate to receive a general characterization of service. 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