



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

TJR
Docket No: 1784-09
11 January 2010

[REDACTED]

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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 15 March 1980 at age 19 and began a period of active duty on 1 May 1980. You served without disciplinary incident until 4 June 1981, when you received nonjudicial punishment (NJP) for an 18 day period of unauthorized absence (UA).

On 7 September 1982 you were convicted by special court-martial (SPCM) of four periods of UA totalling 33 days and sentenced to confinement at hard labor for 45 days and a \$450 forfeiture of pay. About seven months later, on 22 April 1983, you were convicted by summary court-martial (SCM) of a 39 day period of UA and sentenced to confinement at hard labor for 30 days and a \$382 forfeiture of pay.

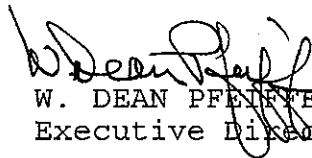
Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 10 May 1983 your commanding officer

recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. On 14 May 1983 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 27 May 1983, 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 explanation regarding the reasons for your enlisting in the Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in NJP and two court-martial convictions. 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