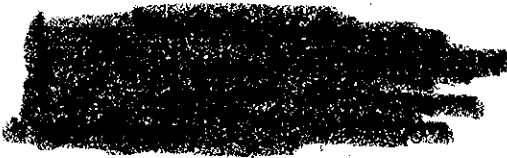




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 2072-09
2 June 2009



Dear [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 27 May 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 13 June 1999 and subsequently reenlisted. On 18 June 2007 you received nonjudicial punishment for disobedience. A special court-martial convened on 8 May 2008 and convicted you of three specifications of making a false official statement and two specifications of larceny. The court sentenced you to reduction in rate, 85 days confinement and forfeitures of pay, the collection of which was deferred.

On 14 July 2008 you were notified of discharge processing by reason of misconduct due to your commission of serious offenses. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board. In his recommendation for discharge, the commanding stated that you had submitted false travel claims and other documents which resulted in you fraudulently receiving basic allowances for housing and travel reimbursement in the amount of \$14,478.84. After review, the discharge authority directed discharge under other than honorable conditions and you were so discharged on 24 July 2008.

In your application you are requesting that the special court-martial be overturned and removed from your record, that your

indebtedness be removed, your paygrade be reinstated to E-5 and your discharge be upgraded. In support of your request you have submitted a copy of a court order dated 28 August 2008 requiring that you pay support for a child born on 25 November 2003. You are apparently contending that support of this child justified your submission of the documents which resulted in your conviction by court-martial.

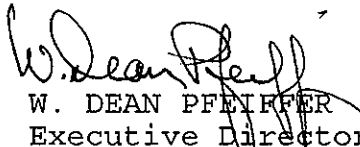
Please be advised that the Board is prevented by law from reviewing courts-martial and must limit its review to determining if the sentence should be reduced as a matter of clemency. The Board was aware that the offenses for which you were convicted involved claiming that you were still married when you had divorced. Given the offenses for which you were convicted, it appears that the punishment was not too severe.

It is clear that the subsequent processing for an administrative discharge based on the court-martial conviction was authorized by regulations. Further, you were given the opportunity to request an administrative discharge board to contest the discharge processing but elected to waive that right. That was clearly your last and best opportunity to be retained in the Navy. The Board concluded that the discharge processing was proper and that it was proper as issued.

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