



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 2089-09

7 April 2009

[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 31 March 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 were honorably discharged from the Army in early 1979 after more than five years of active duty. At that time you were assigned an RE-3 reenlistment code. On 6 November 1979 you enlisted in the Navy. During February 1980 you were charged with about seven days of lost time after you were delivered to civil authorities on an arrest warrant. You were subsequently convicted on a fraudulent check charge, were sentenced to a fine and to provide restitution. Subsequently, you were an unauthorized absentee on two occasions totaling about 32 days for which there is no disciplinary action in the record. On 27 March 1981 you received nonjudicial punishment for criminal libel.

A general court-martial convened on 10 April 1981 and convicted you of wrongful appropriation of about \$3,300 and multiple specifications of writing bad checks. The court sentenced you as mitigated to reduction to paygrade E-1, forfeiture of \$250 pay per month for 10 months, confinement at hard labor for 10 months and a bad conduct discharge. The bad conduct discharge was issued on 22 March 1982.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service in the Army and your contention in effect, that the Navy

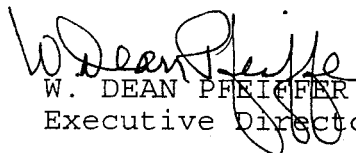
did not grant you the proper waiver for the RE-3 reenlistment code and consequently your enlistment in the Navy was improper. A review of your reenlistment documents shows that you submitted a statement concerning the RE-3 reenlistment code and this information was considered in the decision to authorize your enlistment. Therefore, the Board found that these factors and contention were not sufficient to warrant recharacterization of the bad conduct discharge given the serious nature of your offenses. The Board concluded that the discharge was proper as issued 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 believes that you maybe eligible for veterans' benefits based on your first period of honorable service. Therefore, if you have been denied benefits, you should appeal that denial under procedures established by the Department of Veterans Affairs.

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