



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

TJR
Docket No: 2393-09
23 February 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 23 February 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 31 May 2001 at age 17 and began a period of active duty on 11 February 2002. You served without disciplinary incident until 16 December 2002, when you received nonjudicial punishment (NJP) for failure to obey a lawful order.

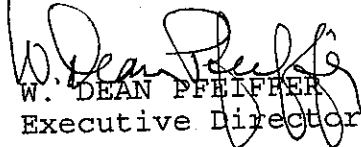
During the period from 25 March to 16 December 2004 you received NJP on four more occasions for three specifications of disobedience, a one day period of unauthorized absence (UA), four periods of absence from your appointed place of duty, four specifications of failure to obey a lawful order, and insubordination. Three months later, on 14 March 2005, you received your sixth NJP for a 57 day period of UA and were awarded an unspecified forfeiture of pay, restriction, and extra duty.

On 8 January 2005 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and 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). Subsequently, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct and commission of a serious offense. On 12 January 2005 the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 30 March 2005 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, and change your narrative reason for separation and reenlistment code. It also considered your assertion that your discharge was unjust because your numerous requests for leave due to family emergencies were denied. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in six NJPs. Further, you were given an opportunity to defend your actions, 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