



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

BAN
Docket No: 2818-09
25 January 2010

[REDACTED]

[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 21 January 2010. 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.

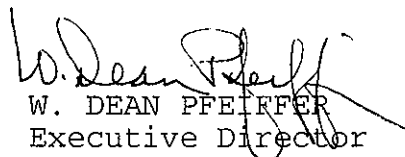
You enlisted in the Navy on 28 July 1977, and served without disciplinary incident until 13 December 1977, when you received nonjudicial punishment (NJP) for sleeping on watch and dereliction of duty. Shortly thereafter, you received the following NJP's: on 20 February 1978, for being absent from your appointed place of duty and being incapacitated to stand a proper watch; on 12 April 1978, for being absent from your appointed place of duty; on 22 April 1978, for being absent from your appointed place of duty; on 26 September 1978, for failure to obey a lawful order by possessing a controlled substance (marijuana); on 10 October 1978, for possessing alcohol while onboard a naval vessel; on 5 February 1979, for an unauthorized absence, failure to obey a lawful order, wrongful appropriation and breaking restriction; and on 24 April 1979, for being absent from your appointed place of duty. Therefore, you were

recommended for separation due to your pattern of misconduct. On 27 April 1979, after seeking counsel, you signed an agreement to waive your administrative discharge board (ADB) in exchange for a general discharge. However, your request was disapproved and on 31 May 1979, you received NJP for being absent from your appointed place of duty. Even though your request for a general discharge was disapproved, you still waived your right to an ADB. Therefore, the separation authority approved the recommendation for an other than honorable (OTH) discharge. On 3 July 1979, you were separated with an OTH discharge and an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to your pattern of misconduct. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Finally, there is no provision in the law or regulations that allow for recharacterization of service due solely to the passage of time. 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