



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

BAN
Docket No: 07247-09
27 May 2010

[REDACTED]

This is in reference to your client's application for correction of his 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 his application on 27 May 2010. His 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 his application, together with all material submitted in support thereof, his 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.

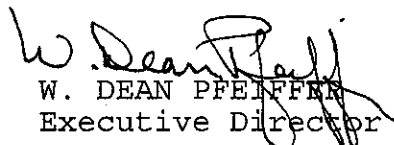
The Board found he enlisted in the Marine Corps on 11 January 1990, and served without disciplinary incident until 28 June 1990, when he received nonjudicial punishment (NJP) for sleeping on post. Shortly thereafter, he received the following NJP's: on 24 July 1990, for an unauthorized absence; and on 4 February 1992, for larceny. On 10 February 1992, he was evaluated by the naval medical center for alcohol and/or substance dependency. He was also given a page 13 counseling statement warning him that any further misconduct would result in administrative separation. On 28 August 1992, he received another NJP for larceny. He was recommended for separation due to his pattern of misconduct. He waived all of his procedural rights, to include his right to an administrative discharge board (ADB). The separation authority

approved the recommendation for an other than honorable (OTH) discharge. Therefore, on 16 October 1992, he was separated with an OTH discharge and an RE-4 reenlistment code.

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