



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

TJR
Docket No: 10742-09
12 August 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 10 August 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 10 December 1990 at age 18 and served without disciplinary incident until 16 September 1991, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty.

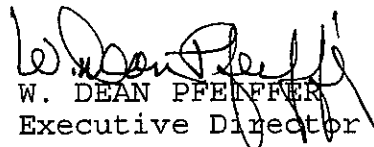
Your record reflects that during the period from 13 April to 21 May 1992 you were in an unauthorized absence (UA) status for 38 days. However, the record does not reflect the disciplinary action taken, if any, for this period of UA. Your record further reflects that in June 1992 you were convicted by special court-martial (SPCM) of disrespect, assault, insubordination, using provoking speech or gestures, and disorderly conduct. You were sentenced to an unspecified period of confinement and a bad conduct discharge (BCD). On 3 June 1992 you submitted a written request for appellate leave. However, it appears that you began another period of UA that was not terminated until you were

returned to military authorities on 4 September 1992. On 11 December 1992, after being counselled for being absent from your appointed place of duty, your request for appellate leave was approved. Subsequently, the BCD was approved at all levels of review, and on 12 May 1993 you were issued a BCD.

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. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct and lengthy periods of UA from the Navy. 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



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TJR
Docket No: 10736-09
12 August 2010



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 10 August 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 22 June 1987 at age 17 and served for nearly five years without disciplinary incident. Your record reflects that on 20 October 1991 you were placed in an alcohol rehabilitation aftercare program upon completion of Level III treatment.

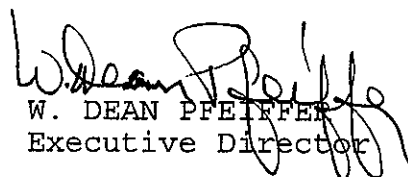
On 20 August 1992 you received nonjudicial punishment (NJP) for assault, two specifications of communicating a threat, wrongful destruction of government property, and two specifications of disrespect. The punishment imposed was reduction to paygrade E-3 and a \$1,042 forfeiture of pay. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to 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). On 17 September 1992 your commanding officer recommended discharge

under other than honorable conditions by reason of misconduct due to commission of a serious offense. On 28 September 1992 the discharge authority approved this recommendation and directed your commanding officer to discharge you under other than honorable conditions by reason of misconduct, and on 5 October 1992 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, desire to upgrade your discharge, and your correspondence regarding alleged unjust actions. It also considered your assertion that your discharge was unjust because it occurred during a time when military bases were closing and a reduction in military forces was in effect. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct. 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.

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