



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

RDZ:jdh
Docket No. 05384-03
28 August 2003



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 27 August 2003. 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.

You reenlisted in the Navy on August 1, 1997, for a term of four years. Your records shows that you had previously served on active duty from August of 1993 to July of 1997 for which you received an honorable discharge. On June 8, 1998 you received nonjudicial punishment for willfully disobeying a petty officer and were awarded seven days of extra duty and a suspended reduction to paygrade E-3. Approximately three months later you were charged with being insubordinate to a superior petty officer and failure to obey a lawful order. As a result of these charges your suspended reduction was vacated. Rather than refer these charges to trial by court-martial your command informed you that it intended to recommend that you be administratively separated with a general discharge (under honorable conditions) by reason of misconduct to the commission of a serious offense. After conferring with lawyer counsel you chose to accept the command's recommendation by waiving your

right to an administrative discharge board. You received the general discharge on November 16, 1998.

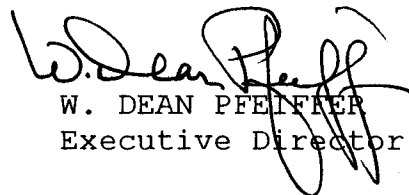
The Board concluded you were indeed fortunate that you were not tried by court-martial for your later misconduct which could have ultimately resulted in a less favorable discharge than the one you now possess. Considering the seriousness of the charges and your willingness to accept a general discharge, the Board could find no basis to grant your request.

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.

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