



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

TJR
Docket No: 7945-07
10 September 2008

[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 9 September 2008. 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 reenlisted in the Navy on 28 July 1985 after four years of prior honorable service. You continued to serve without disciplinary incident until 18 April 1986, when you were convicted by summary court-martial (SCM) of three specifications of assault. You were sentenced to confinement at hard labor for 30 days and a reduction in rate.

On 21 May 1986 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 11 July 1986 an ADB recommended separation under other than honorable conditions by reason of misconduct due to commission of a serious offense. Subsequently, on 7 August 1986, your commanding officer, in concurrence with the ADB, also recommended separation under other than honorable conditions by reason of misconduct due to commission of a serious offense. On 25

September 1986 the discharge authority approved these recommendations and directed an other than honorable discharge, and on 2 October 1986, you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and desire to upgrade your discharge. It also considered both statements made by your wife regarding the charges for which you were convicted by SCM. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. 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