



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

SJN
Docket No: 10088-08
24 August 2009

[REDACTED]

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 18 August 2009. 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 and began a period of active duty on 9 October 1981 at age 21. You served without incident for over three years until 30 October 1984, when civilian authorities found you guilty of five counts of common law burglary, seven counts of abduction, two counts of sodomy, inanimate penetration, and four counts of aggravated sexual battery. Sentencing was scheduled for a later date.

On 30 November 1984, you were processed for an administrative discharge by reason of misconduct due to civil conviction. You were notified of this pending administrative separation action and subsequently waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 4 December 1984, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 7 December 1984, the discharge authority directed an other than honorable discharge by reason of misconduct due to civil conviction. On 17 December 1984 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your guilty plea, conviction of very serious offenses, and subsequent incarceration. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. 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