



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

CRS  
Docket No: 12184-08  
23 April 2010



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 January 2010. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 16 December 2003. On 30 August 2006 you received nonjudicial punishment for violating a lawful general order by creating a hostile work environment and violating a lawful general order by wrongfully viewing sexually oriented adult material on a government computer. The punishment imposed consisted of forfeiture of one-half month's pay per month for two months, restriction and extra duty for 45 days, and reduction in rank.

On 12 September 2006 your commanding officer recommended that you be separated from the Navy with a general discharge by reason of misconduct due to the commission of a serious offense. When informed of this recommendation, you waived the right to consult with counsel and to present your case to an administrative discharge board. On 5 October 2006 you were separated with a general discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and overall record, and the contention that you were made an example of by a command struggling with a poor equal opportunity climate. The Board concluded that those factors were insufficient to warrant recharacterization of your discharge or an reinstatement on active duty.

The Board found no merit in your request to set-aside the nonjudicial punishment. It concluded that your commanding officer acted reasonably in your case, and that he was in the best position to resolve the factual issues and to impose appropriate punishment. There is no credible evidence that you did not commit the charged offenses.

In view of the foregoing, 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