



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

REC
Docket No: 08188-09
27 May 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 26 May 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 10 June 1983, at age 30. On 16 December 1986, you were convicted by a civilian criminal court for lewd and lascivious acts with a minor child. You were sentenced to confinement for one year, and three years probation. On 18 March 1987, your commanding officer directed that a Family Advocacy Evaluation be conducted, in which you disclosed that you had been molesting your daughter for over a year. Based on these incidents, administrative discharge action was initiated to separate you by reason of misconduct and commission of a serious offense. You elected to consult counsel and have your case heard before an administrative discharge board (ADB).

On 25 June 1987, the ADB unanimously recommended separation with an other than honorable discharge by reason of misconduct. On 23 August 1987, the discharge authority directed an other than honorable discharge by reason of misconduct due to your conviction by civil court for offenses occurring during your current term of military service. On 31 August 1987, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in a civilian criminal conviction and confinement. 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