



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

REC
Docket No: 13332-09
16 September 2010



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 15 September 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 enlisted in the Marine Corps on 7 June 1994, at age 17. On 2 October 1994, you were arrested by civilian authorities and charged with felony criminal sexual assault. You were tried and sentenced to 75 days confinement, fined \$300, and were placed on five years probation. On 29 November 1994, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status for 18 days. On 12 January 1995, your commanding officer recommended that you receive an other than honorable (OTH) discharge by reason of misconduct. Subsequently, your case was forwarded, and on 24 February 1995, the discharge authority approved the recommendation for an OTH discharge. You were so discharged on 2 March 1995.

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