



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

REC
Docket No: 00473-10
12 October 2010

[REDACTED]

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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 5 October 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 Navy on 21 October 1999, at age 19. On 11 April 2001, you and your spouse submitted a request for her to be discharged, based on the fact that you could not comply with the planned parenthood program. Apparently, your spouse was discharged and you continued with your career in the Navy. However, on 13 January 2003, you were discharged with an other than honorable discharge and received a reenlistment code of RE-4 to escape trial by court-martial. Your record only reflects your service up to 2001. It is presumed that your record is correct and as a result of your request for discharge, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

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 concluded these factors were not sufficient to warrant recharacterization of your discharge and your reenlistment code. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you

received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. Further, you are advised that there is no provision in the law or Navy regulations that allows for recharacterization of your discharge automatically due solely to the passage of time. 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 PFENIFFER
Executive Director