



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

TJR
Docket No: 368-11
21 October 2011

[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 18 October 2011. The names and votes of the members of the panel will be furnished upon request. 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 5 February 1990 at age 18 and began a period of active duty on 7 March 1990. You served without disciplinary incident until 3 November 1990, when you were convicted by civil authorities of telephonic sexual harassment.

On 23 March and again on 7 June 1991 you received nonjudicial punishment (NJP) for larceny, wrongful appropriation, forgery/fraud, and failure to pay debts. On 21 June 1991 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct and commission of a serious offense. On 1 July 1991 the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 15 July 1991 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered the assertion of being falsely accused of theft. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in two NJPs and conviction by civil authorities. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Finally, there is documented evidence in the record that is contrary to your assertion. Accordingly, your application has been denied.

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