



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 1214-12
28 November 2012

[REDACTED]

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 15 November 2012. 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 August 1993 after more than six years of prior honorable service. On 18 April 1994, you were arrested and charged with the felony of aggravated sexual battery of your stepdaughter. On 6 July 1994, you pled guilty to the reduced charge of misdemeanor sexual battery in the Juvenile Court of Norfolk, Virginia. The result of the hearing was a deferred finding, which was to be dismissed after one year conditioned on your good behavior. You agreed to attend counseling, but did not and denied any wrong doing. Your case was reviewed by the Family Advocacy Case Review Subcommittee, and it was determined that you were not recommended for retention due in part to your refusal to complete treatment. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct. You waived all of your procedural rights,

including your right to an administrative discharge board (ADB). On 7 March 1995, the separation authority approved the OTH discharge for misconduct. On 28 May 1995 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service and current desire to upgrade your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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,



BRIAN J. GEORGE
Head Discharge Section