



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

BJG
Docket No: 1648-13
16 May 2013

[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. Your previous case, docket number 8067-12, was denied on 14 August 2012.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 May 2013. 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, and the Board's file on your prior case.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that on 23 November 2011 you received nonjudicial punishment (NJP) for failure to obey a lawful order (sexual harassment), making inappropriate comments and unwelcomed sexual advances, and using indecent language (three instances). Your punishment was 60 days restriction and reduction to pay grade E-5. You appealed the NJP, however, it was denied.

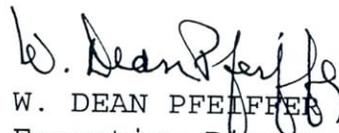
Administrative separation processing was initiated by reason of misconduct due to commission of a serious offense. You elected to have your case heard by an administrative discharge board (ADB) which found that you did not commit misconduct and recommended retention. These facts are in concurrence with your counsel's letter dated 10 April 2013.

The Board found that you accepted NJP rather than demanding a trial by court-martial, and concluded that your commanding officer's decision to impose it, and the punishment awarded was appropriate, and that it was administratively and procedurally correct and appropriately filed.

The Board concluded that your ADB's finding of no misconduct did not in any way change your commanding officer's decision to impose NJP and his findings of guilt to the misconduct. You are advised that an NJP is a disciplinary proceeding to determine guilt or innocence of misconduct, whereas an ADB is merely a forum to determine whether or not a service member should be retained in the military. In view of the above, the Board voted to again deny relief. 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

Enclosure

Copy to:
Gary Meyers, Esq.