



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

CRS
Docket No: 1275-09
10 April 2009

[REDACTED]

[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 8 April 2009. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 28 February 2001. You received three nonjudicial punishments for offenses that included larceny, insubordination, and assault consummated by a battery.

On 25 March 2004 your commanding officer recommended that you be separated from the Navy with a discharge under other than honorable conditions by reason of misconduct due to the commission of a serious offense. After being informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. The recommendation was approved by the separation authority, and you were discharged under other than honorable conditions on 13 April 2004.

In its review of your application, the Board did not accept your uncorroborated contention that you did not assault a female Sailor, which was the offense for which you were discharged. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge as a matter of clemency, 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