



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

REC
Docket No: 10351-10
17 March 2011

[REDACTED] DOBNER CURDT
[REDACTED]
[REDACTED]
[REDACTED] Mr. Dobner-Curd...

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 16 March 2011. 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 and began a period of active duty on 27 September 2000. On 17 October 2002, you received nonjudicial punishment (NJP) for eight instances of failure to obey an order or regulation, four incidents of sodomy, five incidents of adultery, two incidents of indecent acts with another Sailor, and six incidents of soliciting another Sailor to commit an offense. You did not appeal the findings of guilt at your NJP. On 29 May 2003, you were advised that your commanding officer was recommending you for administrative separation 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). Your commanding officer forwarded his recommendation that you be discharged under OTH conditions by reason of misconduct. On 10 June 2003, the discharge authority directed an OTH discharge by reason of misconduct. On 20 June 2003, you were so discharged. At that time you were assigned an RE-4 reentry code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as

your youth. However, the Board found that these factors were not sufficient to warrant removal of your NJP, based on the statements that were provided, and your alleged claim of rape which is not corroborated in your record. The Board noted that you did not appeal your NJP. The Board particularly noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, the Board found that you were fortunate to have had your characterization of service upgraded to an honorable, since a separation under OTH conditions is often directed when an individual is found to have committed misconduct. 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 PFEIFFER
Executive Director