



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

SJN
Docket No: 11304-10
21 July 2011

[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 19 July 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 Marine Corps and began a period of active duty on 29 October 2002. The Board found that you served for over three years without incident until 14 June 2006, when you received nonjudicial punishment (NJP) for insubordinate conduct. On 30 August 2007, you were convicted by general court-martial (GCM) of attempting, in writing, to communicate to a child under the age of 16 indecent language, committing an indecent act upon a child under the age of 16, and two specifications of disorderly conduct by hiding a camcorder in a bathroom to view the naked body of a child under the age of 16. You were sentenced to confinement, forfeiture of all pay, reduction in paygrade, and a bad conduct discharge (BCD). You received the BCD on 22 August 2008 after appellate review was completed.

The Board, in its review of your record and application, carefully weighed all potentially mitigating factors, such as your record of service, desire to upgrade your discharge, and character letters accompanying your application. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP and GCM conviction of very serious offenses. 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