



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

BJG
Docket No: 12471-10
16 August 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 16 August 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.


You enlisted in the Navy and entered active duty on 21 January 1987. Your record reflects two periods of unauthorized absence totaling 455 days for which apparently no disciplinary action was taken. You were also convicted by civil authorities of aggravated criminal sexual abuse and sentenced to five and one half years in prison. You were then notified that your commanding officer was recommending you for administrative separation with an under other than honorable (OTH) conditions characterization of service due to misconduct. You waived your procedural right to an administrative discharge board (ADB).

On 10 August 1988, you received an OTH conditions characterization of service discharge due to misconduct, and were assigned an RE-4 (not recommended for retention) reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. However, the Board concluded that your discharge should not be changed due to your serious misconduct. The Board found that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. You are advised that no discharge is upgraded automatically due solely to the passage of time or post service good conduct. In view of the above, 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