



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

WMP
Docket No: 4861-02
18 November 2002

[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 14 November 2002. 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 25 September 1985 for four years at age 18. You served without incident until 11 April 1986, when you received nonjudicial punishment (NJP) for assault and communicating a threat. The punishment imposed was forfeitures of \$300 per month for two months and 60 days of restriction.

On 21 May 1986 you were convicted by summary court martial of seven specifications of failure to go to your appointed place of duty and two specifications of failure to obey a lawful order. You were sentenced to 30 days of confinement at hard labor and a forfeiture of \$426. On 9 June 1986, the convening authority approved the adjudged sentence and ordered its execution.

On 21 May 1986, you were notified that separation action was being initiated by reason of misconduct due to a pattern of misconduct and commission of serious offense. You were advised of and waived all of your procedural rights except the right to obtain copies of documents supporting the basis for the proposed separation.

On 13 June 1986, your proposed administrative separation was forwarded to the Commander, Naval Military Personnel Command (CNMPC). On 27 June 1986 CNMPC directed discharge under other than honorable conditions, and on 1 July 1986 you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and your contention that your actions were a direct result of sexual harassment. However, the Board found that your other than honorable discharge was appropriate, based on your NJP and court martial conviction. Additionally, you have failed to provide any evidence to support your contention that sexual harassment existed at your command. Furthermore, even if sexual harassment was present, that would not necessarily excuse or mitigate your instances of 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