



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

CRS
Docket No: 7081-05
24 November 2006

[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 21 November 2006. 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 reenlisted in the Navy on 21 June 1990 after more than two years of prior active service. A general court-martial convened on 28 April 1992 and found you guilty of taking indecent liberties with a male under 16 years of age on numerous occasions from October to November 1991, by rubbing the minor child's crotch area and rubbing your penis against the back of the child with the intent to gratify your lust and sexual desires. The court sentenced you to confinement for 14 months, forfeiture of all pay and allowances, reduction in rank, and a bad conduct discharge. At that time, you were assigned a reenlistment code of RE-4.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and the statement from the abused child that stated that he lied about the sexual abuse. Nevertheless, the Board concluded that these factors were not sufficient to warrant a change in the characterization of your discharge. The Board also considered the latest statement of the victim of the child abuse, but could not determine if he was lying when he first accused you or is

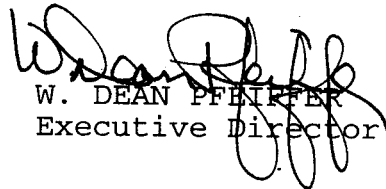
lying now. Based on the foregoing, the Board concluded that no change to the discharge is warranted.

Applicable regulations require the assignment of an RE-4 reenlistment code when an individual receives a bad conduct discharge. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of your reenlistment code.

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