



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

CRS
Docket No: 4830-09
18 October 2010

[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 9 September 2010. 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 29 July 1988. On 9 December 2005 you were convicted by a summary court-martial of improperly transporting a weapon, making a false official statement, failure to obey a lawful order, and an unauthorized absence. The court sentenced you to reduction to pay grade E-6, forfeiture of two-thirds pay for one month, which was suspended. On 31 July 2008 you were transferred to the Fleet Reserve in pay grade E-6.

The Board found no merit in your request for reinstatement to grade E-7. The Board did not consider that punishment unduly harsh. In addition, the Board noted that it is precluded by law from taking any action that would disturb the finality of a court-martial. Although it may modify a sentence as a matter of clemency, it concluded that clemency was not warranted in your case. 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