



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

CRS  
Docket No: 5850-09  
21 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 22 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 initially enlisted in the Navy on 10 April 1990 and served on active duty until 17 February 1994. You reenlisted on 4 March 1995, with 3 years, 10 months and 8 days of prior active duty service. You received nonjudicial punishment (NJP) on 14 October 2007 for failing to obey lawful orders by violating prohibitions on sexual harassment and wrongful fraternization. The punishment imposed consisted of forfeiture of \$1748.00 per month for two months and a punitive letter of reprimand. On 3 February 2008 you were discharged under honorable conditions by reason of completion of required service, having completed 16 years, 8 months and 27 days of active duty service. You were assigned a reentry code of RE-4, to indicate that you were not recommended for reenlistment. The DD Form 214 you were issued at separation shows erroneously that you had completed more than twenty years of active service.

The Board did not accept your contentions to the effect that the NJP was too severe and unwarranted; that you did not commit the charged offenses; that the conduct for which you received NJP did


not rise to the level of violations of Uniform Code of Military Justice; and that the NJP was the result of witness tampering. The Board concluded that your commanding officer acted reasonably in your case, and that he was in the best position to resolve the factual issues and to impose appropriate punishment. It could not find any credible evidence that you did not commit the offense in question. In addition, the Board noted that you received a substantial benefit by accepting the NJP, as you avoided the possibility of being sentenced to confinement at hard labor and punitive separation from the Navy.

The Board carefully considered your otherwise outstanding record of service, but found it insufficient to warrant granting relief in your case, given the nature of your misconduct. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider the issue of the appropriateness of the characterization of service as under honorable conditions, vice honorable, since you have not exhausted an available administrative remedy by applying to the Naval Discharge Review Board (NDRB). You may do so by submitting the attached DD Form 293.

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

Enclosure