



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

CRS
Docket No: 8190-09
31 August 2009

[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 26 August 2009. 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 8 November 1990. On 12 March 2009 you received nonjudicial punishment for failure to obey a lawful order, failure to obey a lawful general regulation, wrongful use of reproachful language, and three specifications of assault. The punishment consisted of reduction in pay grade to MA2 (E-5). On 18 May 2009 you were honorably transferred to the Army National Guard.

The Board did not accept your unsubstantiated contention to the effect that you did not commit the assaults or any of the other offenses for which you received nonjudicial punishment. The Board presumed that your commanding officer acted reasonably in your case when he determined that you had committed the offenses, and concluded that he was in the best position to resolve the factual issues present in your case and to impose appropriate punishment. In addition, the Board noted that you did not demand trial by court-martial as was your right, and you did not submit an appeal of the punishment. 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