



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

REC
Docket No: 00561-10
30 September 2010

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 29 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy Reserve on 25 October 1989, and began active duty on 9 July 1990, at age 18. On 14 December 1992, you were convicted at a special court-martial (SPCM) of conspiring to commit assault, committing assault and negligently discharging a firearm. You were sentenced to a forfeiture of \$1200, and confinement at hard labor for six months. On 10 March 1993, you were convicted by the County of San Diego, Civil Superior Court of California, for attempted murder in the second degree. You were sentenced to five years in prison and a fine of \$100. On 31 May 1994, your commanding officer recommended that you receive an other than honorable (OTH) discharge by reason of misconduct. Subsequently, your case was forwarded, and on 14 June 1994, the discharge authority approved the recommendation for an OTH discharge. You were so discharged on 8 July 1994.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in one conviction by

SPCM, and a civilian criminal conviction and confinement for serious offenses. 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