



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 3213-99

13 September 1999

[REDACTED]

Dear [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 18 August 1999. 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 27 December 1983. An Administrative Remarks (page 13) entry in your record reflects that on 15 February 1991 you received nonjudicial punishment (NJP) for indecent acts in July, September, November, and December 1990. The punishment imposed consisted of restriction and extra duty for 45 days and reduction in pay grade to RM3 (E-4), which was suspended for six months. However, no entry was made in the Enlisted Performance Record (page 9). On the enlisted performance evaluation for this period, the reporting senior noted that you showed "poor judgment on occasion, causing command involvement."

The Board also noted your contention that you never received NJP, but noted that your contention is not sufficiently substantiated. In this regard, the Board noted that it is not documented on page 9 as it should be. However, the page 13 entry clearly reflects that NJP was imposed and the reporting senior apparently alluded to the underlying misconduct in the performance evaluation.

The Board noted your performance of duties prior to and subsequent to the NJP, but found that it was insufficient to warrant the deletion of established misconduct from your record. The Board concluded that the punishment was not too severe for the offense of record. The Board also noted your contention that the NJP was not yours, but noted that your contention is unsubstantiated. In this regard, the Board concluded that removal of the NJP from your record would be unfair to your peers, against whom you will compete for promotions and assignments. 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