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

TJR
Docket No: 8785-98
30 June 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 22 June 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you reenlisted in the Navy on 19 August 1992 after four years of prior honorable service. Your record reflects that you continued to serve for a year and nine months without incident but on 20 May 1994 you received nonjudicial punishment (NJP) for aggravated assault with a dangerous weapon. The punishment imposed was restriction and extra duty for 45 days, forfeitures totalling $1,105.80, and reduction to paygrade E-3.

On 23 May 1994 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 30 June 1994 an ADB recommended you be issued a general discharge by reason of misconduct due to commission of a serious offense. Subsequently, 25 July 1994, your commanding officer recommended you be issued a general discharge by reason of misconduct. On 19 August 1994 the discharge authority approved the foregoing recommendations and on 30 August 1994 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct. The Board noted that you assaulted a superior petty officer by pointing a nine-inch knife at him. Given all the circumstances in your case the Board concluded your discharge was proper as issued and no change is warranted. 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