



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

TAL
Docket No: 6876-09
13 May 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 12 May 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 and began a period of active duty on 29 March 2001 at age 20. On 3 May 2003, you received nonjudicial punishment for disobeying a lawful order and making a false official statement. You served for four years, were only advanced to paygrade E-3 and not recommended for reenlistment. You were honorably released from active duty on 28 March 2005, transferred to the Navy Reserve and assigned a reenlistment code of RE-4.

Individuals separated at the expiration of their obligated service: Naval Operations Instruction (OPNAVINST) 1160.5C notes that professional growth criteria must be met before a Sailor may reenlist. The instruction states, in part, as follows:

...To satisfy professional growth criteria for the first reenlistment...the member must be: (1) serving as a petty officer or, (2) serving in paygrade E-3 having passed an examination for advancement to paygrade E-4 and be currently recommended for advancement, or (3) have formerly been a petty officer in current enlistment and be currently recommended for advancement to paygrade E-4. Failure to

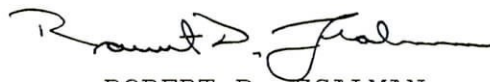
meet the professional growth criteria may result in denial of further extensions or reenlistment...

An individual separated in paygrade E-3 who fails to meet the above criteria may receive an RE-3R reenlistment code if he is recommended for advancement to paygrade E-4 at the time of separation. If not, the individual must be assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your period of satisfactory service. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in the reenlistment code. In this regard, an RE-4 reenlistment code is required when an individual is separated at the completion of his term of active service, is not recommended for retention, and has failed to meet professional growth criteria. 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,



ROBERT D. ZSALMAN
Acting Executive Director