



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

REC
Docket No: 00470-10
22 September 2010

[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 22 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 and began a period of active duty on 4 April 2001, at age 17. On 15 January 2003, you received nonjudicial punishment (NJP) for assault, failure to obey a lawful order, and being disrespectful toward a superior commissioned officer. On 18 September 2003, you received NJP for the wrongful use of marijuana. On 18 September 2003, administrative separation action was initiated by reason of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. The discharge authority directed an other than honorable discharge by reason of misconduct. On 9 October 2003, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the

characterization of your discharge, given your record of two NJP's for misconduct. In this regard, an RE-4 reenlistment code is required when an individual is discharged prior to the expiration of his term of active obligated service for misconduct and is not recommended for retention. The Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board found that since your discharge is less than 15 years old, you are entitled to submit the attached Application for the Review of Discharge or Dismissal from the Armed Forces of the United States (DD Form 293) to the Naval Council of Personnel Review Boards, Attention: Naval Discharge Review Board (NDRB), 720 Kennon Street, SE, Room 309, Washington Navy Yard, Washington, DC 20375-5023, for consideration of an upgrade of your discharge and a change in your narrative reason for separation.

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 PENNER
Executive Director