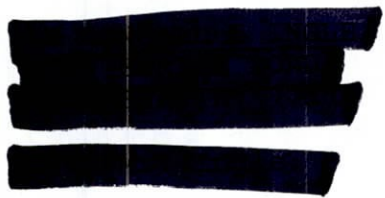




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 2645-10
26 January 2011



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 19 January 2011. The names and votes of the members of the panel will be furnished upon request. 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 on 27 July 1999 at age 19. You served for nearly a year without disciplinary incident, but on 22 June 2000, you received nonjudicial punishment (NJP) for assault, insubordination, absence from your appointed place of duty, two specifications of failure to obey a lawful order, misbehavior as a sentinel, and using provoking speech or gestures. The punishment imposed was restriction and extra duty, reduction to paygrade E-4, and a \$402 forfeiture of pay. A year later, on 30 July 2001, you were convicted by summary court-martial (SCM) of a 223 day period of unauthorized absence (UA). You were sentenced to confinement for 29 days and a \$695 forfeiture of pay. On 15 November 2001 you were reduced to paygrade E-1, presumably due to your continued misconduct.

It appears that in August 2004 you were convicted by special court-martial (SPCM) of unspecified offenses and sentenced to a bad conduct discharge (BCD). Subsequently, the BCD was

approved at all levels of review, and on 31 August 2004, while serving in paygrade E-1, you were issued a BCD. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to change your reenlistment code. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in NJP, SCM, and SPCM. Finally, an RE-4 reenlistment code is not only authorized by regulatory guidelines, but mandatorily assigned to Sailors who are separated with a BCD. Accordingly, your application has been denied.

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