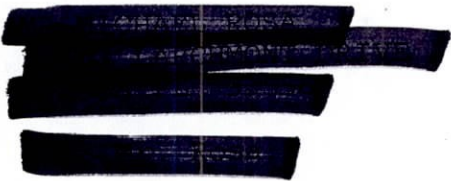




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3676-10
9 February 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 8 February 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 28 May 1999 at age 23 and served without disciplinary incident until 22 November 1999, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and failure to obey a lawful order. Shortly thereafter, on 21 January 2000, you received NJP for failure to obey a lawful order.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under honorable conditions by reason of misconduct, and on 3 March 2000, the discharge authority approved this recommendation and directed your commanding officer to issue you a general discharge by reason of misconduct. On 10 March 2000 you were so discharged and 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 post service conduct and desire to change your record, presumably, your reenlistment code, narrative reason for separation, and characterization of service, so that you may reenlist in the armed forces. It also considered your character reference letters provided in support of your request. Nevertheless, the Board concluded these factors were not sufficient to warrant relief because of your repetitive misconduct which resulted in two NJPs in a short term of service. Further, you were given an opportunity to defend yourself, but waived your procedural rights. Finally, Sailors discharged by reason of misconduct normally receive discharges "under other than honorable" conditions, and an RE-4 reenlistment code is required when a Sailor is discharged by reason of misconduct. 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