



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

TAL
Docket No: 5960-10
4 March 2011

[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 2 March 2011. 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 27 January 2004 at the age of 19. On 4 August 2004, you received nonjudicial punishment (NJP) for unauthorized absence (UA) and failure to go to your appointed place of duty. On 29 September 2004, you again received NJP for six instances of disobeying a lawful regulation by underage drinking, fraternization and sexual misconduct. You were notified of pending administrative separation action by reason of misconduct due to a pattern 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 (OTH) conditions by reason of misconduct. The separation authority directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 12 October 2004 you were so discharged and assigned an RE-4 (not recommended for retention) reentry code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and prior honorable service. Nevertheless, the Board found that these factors were not sufficient to warrant changing your reentry code given the seriousness of your misconduct. The Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, an RE-4 reentry code must be assigned to all Sailors discharged due to misconduct. 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