



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

TJR
Docket No: 8811-10
30 August 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 24 August 2010. 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 reenlisted in the Navy on 18 January 1994 after six years of prior honorable service and continued to serve without disciplinary incident until October 1994. However, on 6 October 1994, you received nonjudicial punishment (NJP) for larceny and wrongful appropriation. Shortly thereafter, on 25 October 1994, you were counselled regarding your wrongful attempt to obtain a loan from the Navy Relief Society.


On 1 May 1997 you received NJP for two specifications of failure to pay just debts and were awarded extra duty for 30 days and a reduction to paygrade E-3. Subsequently, you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. After waiving your procedural right to present your case to an administrative discharge board (ADB), your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation

and your commanding officer was directed to issue you an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 13 June 1997 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 prior honorable service and desire to change your reenlistment code. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct which resulted in two NJPs, discharge under other than honorable conditions, and nonrecommendation for reenlistment. Further, you were given an opportunity to defend yourself and possibly receive a better characterization of service, but waived your procedural right to an ADB. As such, an RE-4 reenlistment code is required by regulatory guidance to be assigned when Sailors are discharged under other than honorable conditions or 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