



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 637-12
31 October 2012



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 24 October 2012. 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 17 March 1987 at age 23. You were counseled on three occasions for misconduct, failure to comply with a court order to pay dependent support, unauthorized absence (UA) from your unit for a period of 15 days and failure to attend medical appointments. On 22 December 1994 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. In December 1994, you also tested positive for wrongful use of cocaine. On 27 December 1994, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (drug abuse). You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 5 February 1995, you received the OTH discharge for misconduct (drug abuse), and were 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 overall record of service and your diagnosed medical condition. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge, changing the narrative reason for separation or reentry code given the seriousness and repetitiveness of your misconduct. The Board noted you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, no discharge is automatically upgraded due to passage of time or an individual's good behavior after discharge. 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,



ROBERT D. ZSALMAN
Acting Executive Director