



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

TAL
Docket No: 1659-12
5 December 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 28 November 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 16 February 2006 at age 19. You received nonjudicial punishment (NJP) on two occasions for insubordinate conduct toward a superior petty officer, failure to obey a lawful order and theft. After your first NJP, you were counseled regarding your misconduct and warned that further offenses could result in administrative separation. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (commission of a serious offense). You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 14 September 2007, you received the OTH discharge for misconduct (commission of a serious offense), and were assigned a RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing your reenlistment code given the seriousness of your misconduct that resulted in two NJPs. The Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. Finally, an RE-4 reenlistment 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.

The Board also noted that you are entitled to submit the attached Application for the Review of Discharge or Dismissal from the Armed Forces of the United States (DD Form 293) to the Naval Council of Personnel Review Boards, Attention: Naval Discharge Review Board, 720 Kennon Street, SE, Room 309, Washington Navy Yard, Washington, DC 20375-5023, for consideration of an upgrade of your discharge and a change in your narrative reason for discharge.

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

Enclosure