



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

SJN
Docket No: 10108-08
2 September 2009

[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 25 August 2009. 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 23 March 1999 after four years of honorable service. On 9 October 2001, you were convicted by civil authorities of driving on a suspended license, which was your second offense. On 22 April 2004, you were convicted of driving under the influence, which involved an accident, and declared a habitual offender. As a result of your second conviction, you were sentenced to a fine, confinement, and had your license suspended.

On 17 May 2004, you were processed for an administrative discharge by reason of misconduct due to civil conviction. Based on the information currently contained in your record it appears you were notified of this pending administrative separation. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). You received a general discharge on 4 June 2004, and were assigned an 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 concluded these factors were not sufficient to warrant a change in the reenlistment code, which was based on your misconduct due to civil conviction. In this regard, an RE-4 reenlistment code is required when an individual is 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