



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

REC
Docket No: 00060-11
29 September 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 28 September 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 on 17 November 1987. Prior to entering active duty, on 17 August 1987, you were convicted by civilian authorities of stealing, and required to pay court costs of \$78.50. On 2 March 1988, you received nonjudicial punishment (NJP) for being drunk on duty. On 27 October 1988, you received NJP for failure to obey a lawful order, and two incidents of assault. On 23 January 1989, you received NJP for failure to obey a lawful order, and breaking restriction. On 24 January 1989, you were advised that your commanding officer was recommending you for administrative separation with an other than honorable (OTH) discharge due to misconduct. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 25 January 1989, your commanding officer forwarded his recommendation that you be discharged under OTH conditions by reason of misconduct. The discharge authority directed an OTH discharge by reason of misconduct (commission of a serious offense). On 5 February 1989, you were so discharged. At that time you 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, conduct, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your discharge, given your record of one civil conviction, and three NJP's for misconduct. In this regard, an RE-4 reenlistment code is required when an individual is discharged for misconduct and is not recommended for retention. The Board also noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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