



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

TJR
Docket No: 365-11
8 November 2011

[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 2 November 2011. 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 enlisted in the Navy on 12 November 1997 and immediately began a period of active duty. It appears that you served without disciplinary incident until 22 October 2011, when you were convicted by summary court-martial (SCM) of failure to obey a lawful order, two specifications of using provoking speech, and other unspecified offenses. You were sentenced to forfeiture of two-thirds of your pay, reduction to paygrade E-5, and restriction for 14 days.

Subsequently, you were processed for an administrative separation action by reason of misconduct due to commission of a serious offense. At that time you were not recommended for retention or reenlistment. The discharge authority directed your commanding officer to issue you a general discharge by reason of misconduct, and on 10 November 2010, 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 youth 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 a SCM and nonrecommendation for reenlistment. Further, an RE-4 reenlistment code is authorized when a Sailor is discharged by reason of misconduct. Accordingly, your application has been denied.

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 Boards, Attention: Naval Discharge Review Board, 720 Kennon Street, S. E., Room 309, Washington Navy Yard, Washington, DC 20374-5023 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