



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

SJN
Docket No: 01067-12
3 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 29 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 26 November 2003. The Board found that on 30 November 2004, you were convicted by civil authorities of a felony charge of attempting to elude a pursuing police vehicle. On 27 January and 10 February 2005, you received nonjudicial punishment (NJP) for wrongly and falsely altering your military identification card and disobedience by operating a motor vehicle without a valid driver's license. Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. On 24 February 2005, the separation authority concurred and directed an OTH discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 11 March 2005. At that time, you were assigned an RE-4 reentry code and not recommended for reenlistment.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity. Nevertheless, the Board found that these factors were not sufficient to warrant a change in your reentry code given your two NJP's and civil conviction of a serious offense. The Board noted that you waived your right to an ADB, your best chance for retention or a better characterization of service. Finally, an RE-4 reentry 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 did not consider whether to upgrade your discharge or change the reason for separation because you did not request such action, and you have not exhausted your administrative remedy of applying to the Naval Discharge Review Board (NDRB). You may apply to NDRB by submitting the attached DD Form 293.

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,



IA
BRAIN J. GEORGE
Head, Discharge Section

Enclosure