



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

TAL
Docket No: 1649-12
5 December 2012

[REDACTED]

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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 30 April 2001 at age 19. You received nonjudicial punishment (NJP) on three occasions for three instances of unauthorized absence (UA) and two instances of failure to obey a lawful order. Based on the information currently contained in your record it appears that you were arrested by civil authorities and while serving a jail sentence, you were subsequently administratively processed for separation by reason of misconduct. In connection with this processing, you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. You waived your procedural right to an administrative discharge board (SDB). The record clearly shows that on 24 March 2005, you were discharged with an other than honorable characterization of service due to misconduct (commission of a serious offense).

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 recharacterization of your discharge due to your repetitive misconduct that resulted in three NJPs and a civil conviction. The Board also noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Finally, members of the armed services who are convicted by civil authorities may be discharged for 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