



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

SJN
Docket No: 09464-12
24 October 2012

[REDACTED]

[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 23 October 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 Marine Corps and began a period of active duty on 30 December 1996. During the period from 1 August 1997 to 19 November 1998, you received three nonjudicial punishments (NJP's) for three instances of disobedience, unauthorized absence, and drunk and disorderly conduct. On 30 November 1998, you were counseled and warned that further misconduct could result in administrative discharge action. On 25 January 1999, you were convicted by summary court-martial (SCM) of disrespect and disobedience. You received confinement and a forfeiture of pay. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. 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. The separation authority concurred and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. You were so discharged on 28 April 1999. At that time you were assigned an RE-4 reentry code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, post service accomplishments, and desire to change your RE-4 reentry code. Nevertheless, the Board concluded these factors were not sufficient to warrant changing your reentry code given your record of three NJP's, conviction by SCM, and the fact that you were counseled and warned of the consequences of further misconduct after your third NJP. Finally, you were assigned the appropriate reentry code based on your circumstances. 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 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,



ROBERT D. ZSALMAN
Acting Executive Director

Enclosure