



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

SJN
Docket No: 8265-13
4 September 2014

[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 3 September 2014. 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.

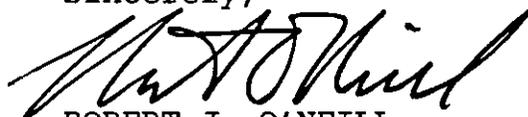
You enlisted in the Navy and began a period of active duty on 3 March 2005. The Board found that on 8 and 13 August 2012, you were arrested for driving under the influence (DUI) of alcohol. Subsequently, on 5 December 2012, administrative separation action was initiated by reason of misconduct due to commission of a serious offense. You elected to consult counsel and have your case heard before an administrative discharge board (ADB). On 2 May 2013, the ADB recommended separation with a general discharge by reason of misconduct due to commission of a serious offense. On 11 June 2013, your commanding officer concurred with the ADB's findings and forwarded his recommendation that you be discharged. On 20 June 2013, the separation authority directed a general discharge by reason of misconduct due to commission of a serious offense. On 26 June 2013 you were so discharged. At that time, you were assigned an RE-4 (not recommended for retention) reentry code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of service, desire to change your reentry code, and contention that you were discharged because of your sexual orientation. Nevertheless, the Board found that these factors and contention were not sufficient to warrant changing your reentry code given your arrests for DUI and pending civil court proceedings. Finally, an RE-4 reentry code must be assigned to all Sailors discharged due to misconduct. Concerning your contention, there is no evidence in the record to support it, and you submitted no such evidence. This Board is not an investigative body nor does it have the resources to investigate unsubstantiated allegations regarding individuals and occurrences. 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,



ROBERT J. O'NEILL
Executive Director

Enclosure