



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

BAN
Docket No: 12250-11
29 November 2012



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 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 entered active duty in the Navy on 27 July 1989, and served without disciplinary incident until the end of your obligated service. You immediately reenlisted on 1 December 1991, and served without disciplinary incident until 7 August 1992, when you received nonjudicial punishment (NJP) for an unauthorized absence. Shortly thereafter, on 23 October 1992, you received NJP for driving under the influence of alcohol and assault. In addition, on 28 October 1992, you received another NJP for failure to obey a lawful order, making a false official statement and disrespect. You were recommended for separation with an other than honorable (OTH) discharge due to misconduct (commission of a serious offense (COSO)). You waived your rights to counsel and an administrative discharge board (ADB). The

separation authority approved the recommendation, and on 11 December 1992, you were separated with an OTH discharge due to misconduct (COSO) and an RE-4 (not recommended for retention) reentry code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, and claim that you should receive a DD Form 214 (Certificate of Release or Discharge from Active Duty) for your first enlistment. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to your discharge due to your COSO. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention, or a better characterization of service. Finally, the Board noted that pursuant to regulations and policy, a service member does not receive a DD Form 214 when they immediately reenlist without a break in service. 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,



BRIAN J. GEORGE
Head, Discharge Section