



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 6885-06
22 March 2007

[REDACTED]

[REDACTED]

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 20 March 2007. 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 on 7 July 2005 at age 18. A month later, on 11 August 2005, you received nonjudicial punishment (NJP) for inappropriate physical contact with another recruit by repeatedly grabbing a Sailor's buttocks.

On 18 August 2005 you reported that you had smoked marijuana and used cocaine prior to enlistment. You stated that you did not say anything during the moment-of-truth because you were scared. You further stated that you did not tell the recruiter about this drug use. Subsequently, you were referred for evaluation due to feeling depressed and hopeless. After undergoing a psychiatric evaluation, you were diagnosed with an adjustment disorder with a depressed mood.

On 24 August 2005 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense and fraudulent entry due to failure to disclose pre-service drug abuse. At that time you waived your right to

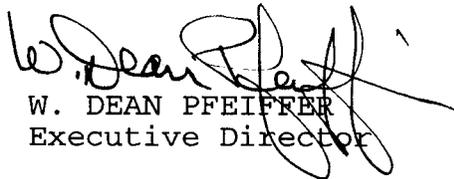
consult with legal counsel and to submit a statement in rebuttal to the aforementioned notification. On 29 August 2005 the discharge authority directed an uncharacterized entry level separation by reason of misconduct and fraudulent entry and on 8 September 2005 you were so separated and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that you were wrongfully accused of misconduct. It also considered your assertion that you wanted to get out of the Navy and said whatever was necessary to do so. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your characterization of service, reenlistment code, or narrative reason for separation. The Board concluded that your misconduct and failure to disclose pre-service drug abuse were sufficient to support the type of discharge and assignment of an RE-4 reenlistment code. Such a code is required when Sailors are separated due to 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