



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

TRG
Docket No: 2367-08
20 November 2008

[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 18 November 2008. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 1 June 2000 at age 18 for four years. On 26 April 2002 you reenlisted for six years. You then served without incident for over three years. On 1 July 2005 the Navy Drug Laboratory reported that you had tested positive for using marijuana and ecstasy. Nonjudicial punishment was held on 21 September 2005 for wrongful use of drugs. The punishment imposed included a reduction in rate, forfeitures of pay, restriction and extra duty.

Based on your use of drugs, you were processed for an administrative discharge. In connection with that processing, you elected to waive the right to have your case heard by an administrative discharge board. After review, the separation authority directed discharge under other than honorable conditions and you were so discharged on 24 October 2005. At that time, you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your period of good service and contention, in effect, that your command's involvement in the recovery from Hurricane Katrina led to delay and impacted your ability to contest the charges against you.

The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your record of drug abuse. The Board concluded that the discharge was proper as issued and no change is warranted.

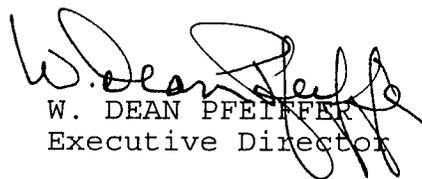
Regulations require the assignment of an RE-4 reenlistment code when an individual receives a discharge under other than honorable conditions and when the reason for discharge is misconduct due to drug abuse. Since you have been treated no differently than others discharged for that reason, the Board could not find an error or injustice in the assignment of the RE-4 reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Although you reenlisted early, it is clear that you served honorably for over five years and accordingly completed the four year period for which you initially enlisted. Therefore, you may be eligible for veterans' benefits based on your initial period of good service. However, the decision to grant benefits is a matter under the cognizance of the Department of Veterans Affairs.

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