



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

SMW

Docket No: 5517-07
24 January 2008

[REDACTED]

Dear [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 January 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 14 January 2004, you enlisted in the Navy at age 24. On 16 December 2004, a medical evaluation diagnosed you as having a food allergy to seafood and shellfish. At that time you were prescribed an epinephrine-pen for emergency use. On 12 January 2005, another medical evaluation stated that you were severely allergic to shellfish, and concluded that you were not fit for sea duty and were unlikely to have any changes in this condition. On 19 February 2005, a performance evaluation indicated that you were recommended for retention. On 2 March 2005, your commanding officer initiated administrative separation by reason of convenience of the government due to a condition not a physical disability that interferes with the performance of duty, and recommended an honorable discharge. In connection with this processing, you acknowledged the separation action and did not object to discharge. On 10 March 2005, the separation authority approved the discharge recommendation. On 16 March 2005, another medical evaluation stated that you were extremely allergic to shellfish to the point that you were unable to eat food prepared in a galley if any shellfish was prepared at the same time, even without eating shellfish yourself. On

25 March 2005, you were honorably discharged by reason of convenience of the government due to a condition not a disability which interferes with the performance of duty and assigned an RE-4 reenlistment code.

Regulations authorize the assignment of an RE-4 reenlistment code to members who are discharged due to a condition not a disability which interferes with the performance of duty. Although your last performance evaluation indicated that you were recommended for retention, the Board found that recommendation was not binding due to you being found unfit for sea duty because of the severity of your diagnosed food allergy. Since you have been treated no differently than others in your situation, 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.

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, 7


W. DEAN PFELFFER
Executive Director