



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

TJR
Docket No: 6323-07
17 April 2008

[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 15 April 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.

You enlisted in the Navy on 29 September 1997 at age 19 and served without disciplinary incident until 31 January 2001, when you received nonjudicial punishment (NJP) for insubordination and failure to obey a lawful order.

On 23 October 2003 you received NJP for absence from your appointed place of duty and failure to obey a lawful order. The punishment imposed was a \$350 forfeiture of pay, restriction and extra duty for 14 days, and reduction to paygrade E-3, which was suspended for six months. About six months later, on 23 April 2004, you received a third NJP for absence from your appointed place of duty and were awarded a \$311 forfeiture of pay, restriction and extra duty for 14 days, and a suspended reduction to paygrade E-2.

On 29 July 2005 you signed a performance evaluation acknowledging a nonrecommendation for advancement and retention. The reporting senior stated, in part, as follows:

(Member) requires direct supervision to get satisfactory results.... he takes no ownership of any actions and constantly makes excuses for his unsatisfactory performance blaming others.... awarded NJP for UA, which resulted in a suspended reduction in paygrade.... not recommended for advancement or retention.

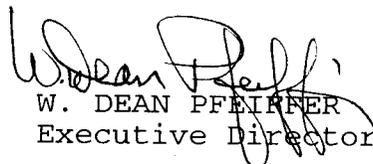
Your record contains an administrative remarks entry dated 16 September 2005, that you acknowledged/signed, which states that you were assigned an RE-4 reenlistment code and were not subject to recall without review and approval of the Chief of Naval Personnel. Shortly thereafter, on 28 September 2005, while serving in paygrade E-3 you were honorably discharged by reason of nonretention on active duty 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 should have been assigned a reenlistment code for high-year tenure. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in the RE-4 reenlistment code because of your nonrecommendation for advancement and retention, substandard performance, misconduct which resulted in three NJPs, and failure to meet professional growth criteria. Further, an RE-4 reenlistment code is authorized when a Sailor is separated and is not recommended for retention or reenlistment. 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