



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SJN

Docket No: 07811-07

26 June 2008

[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 24 June 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 Marine Corps on 10 September 1998 at age 19. On 25 March 1999, you were counseled about underage drinking and warned that further misconduct could result in administrative discharge action. On 2 August 1999, you received nonjudicial punishment (NJP) for altering your military identification card. You were awarded a forfeiture of pay, restriction and extra duty.

Based on the information currently in your record, a medical entry states that on 18 July 2000, you referred yourself to an alcohol treatment program after being charged with driving under the influence (DUI) of alcohol by civil authorities. On 20 July 2000, you were evaluated as alcohol dependent and admitted to outpatient treatment. However, you were returned to full duty as a treatment failure because you drank while in treatment, and were arrested and charged for another DUI on 23 August 2001.

On 15 January 2002, you were recommended for separation due to repeated counseling on your lack of discipline, failure to perform to standards, and your second DUI charge. On 8 February 2002, you were once again counseled about your conduct and warned that further misconduct could result in administrative separation action. On 26 February 2002, you received a second NJP for a brief period of unauthorized absence.

On 26 February 2002, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. You waived your right to consult with counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 28 February 2002, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct to the separating authority. On 3 April 2002 you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and letter from the Veterans Administration. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reason for your discharge given your record of two NJP's and convictions by civil authorities for DUI, or a change to your reenlistment code which was based on your disciplinary record and substandard behavior. In this regard, an RE-4 reenlistment code is required when an individual is separated due to misconduct. Further, the Board noted that you were counseled and warned of the consequences of further misconduct, and you waived the right to an ADB, your best chance for retention or a better characterization of 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,

  
W. DEAN PFEIFFER  
Executive Director