



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

TJR  
Docket No: 8019-07  
3 October 2008



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 1 October 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 25 June 2001 at age 19 and served without disciplinary incident until 23 Jun 2003, when you received nonjudicial punishment (NJP) for larceny, making a false official statement, and a 28 day period of unauthorized absence (UA). About six months later, on 5 December 2003, you were convicted by summary court-martial (SCM) of a 73 day period of UA and sentenced to confinement for 14 days and a reduction to paygrade E-2.

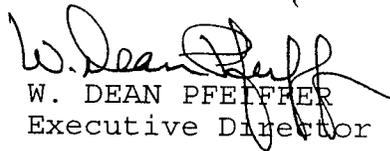
On 13 December 2003 you were notified of pending administrative discharge by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended discharge under honorable conditions by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation, and on 5 January 2004 you were so discharged 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 desire to reenlist. It also considered your assertion that you believe the RE-4 is unjust because you were discharged under honorable conditions. Nevertheless, the Board concluded these factors were not sufficient to warrant a change of your reenlistment code because of your repetitive misconduct and lengthy periods of UA. Further, an RE-4 reenlistment code is authorized by regulatory guidance and must be assigned when a Sailor is separated by reason of misconduct. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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