



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

TRG
Docket No: 8361-07
12 August 2008



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 5 August 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 27 August 2004 at age 18. During the period from 12 January to 4 February 2005, you received nonjudicial punishment on three occasions. Your offenses were wrongful alteration of an identification card and missing restricted musters on several occasions. Based on the foregoing record, you were processed for an administrative discharge by reason of a pattern of misconduct. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board (ADB). After review, the separation authority directed discharge under other than honorable conditions and you were so discharged on 9 March 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 the nature of your offenses and contention that you only missed restricted musters because you were unable to sleep due to your roommate's activities that were keeping you awake. You allege that your commanding officer refused to consider this excuse. The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge or to change the reason for your discharge given your record of misconduct. The

Board noted that you declined the right to have your case heard by an ADB which was your last best chance to make your argument prior to discharge. Accordingly, there is no explanation in your record as to why you missed the restricted musters. The Board concluded that the discharge and reason for discharge were proper as issued and no change is warranted.

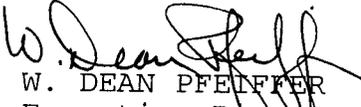
Regulations require the assignment of an RE-4 reenlistment code when an individual is discharged under other than honorable conditions by reason of misconduct. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of 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.

You may be eligible to request recharacterization of your discharge and a change to the reason for your discharge by submitting an application to the Naval Discharge Review Board. Therefore, I am enclosing an application, DD Form 293, for your use if you decide to apply.

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

Enclosure