



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

SJN
Docket No: 08479-07
28 August 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 26 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 25 April 1989 at age 18. On 3 March 1990, you were the subject of a psychiatric evaluation. You were diagnosed with cannabis abuse in remission, alcohol abuse in partial remission, and a borderline personality disorder with antisocial features, all of which existed prior to entering the service. The report further stated, in part, that you manifested a severe longstanding disorder of character and behavior of such severity as to interfere with serving adequately in the Navy. While you were not suicidal or homicidal, you were a risk to harm yourself or others.

On 7 March 1990, you were notified of pending administrative separation action by reason of convenience of the government due to the diagnosed personality disorder. You elected to waive the rights to consult counsel, or submit a statement. Your commanding officer directed that you be separated from the service, and on 8 March 1990 you received an honorable discharge. 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, post-service accomplishments, character letters and psychological evaluation accompanying your application and contention that you gave a false statement in order to be discharged from the service. Nevertheless, the Board found that these factors were not sufficient to warrant a change in your reenlistment code given the diagnoses of a personality disorder and possible risk to harm yourself or others. An RE-4 reenlistment code is routinely assigned under such circumstances. With regard to your contention, it is well settled in the law that if a Sailor procures a discharge by fraud, he should not benefit from the fraud when it is discovered. Therefore, if you lied to get out of the military as you contend, no corrective action would be appropriate. 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