



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

TRG
Docket No: 8999-07
31 January 2008

Dear [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 29 January 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 13 August 2002. On 28 May 2003, you were convicted by a summary court-martial for disrespect, disobedience, willful damaging of government property, two specifications of assault, three specification of communicating a threat, and drunk and disorderly conduct. The court sentenced you to a forfeiture of pay, reduction to pay grade E-1, and 20 days confinement. On 26 June 2003, you were counseled and warned that further misconduct could lead to discharge processing. On 8 August 2003, you were convicted by civil authorities of disturbing the peace and fighting. On 14 August 2003, you received nonjudicial punishment for a short period of unauthorized absence and possession of alcohol while a minor.

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. After review, the discharge authority directed a general discharge by reason of a pattern of misconduct and you were so discharged on 1 October 2003.

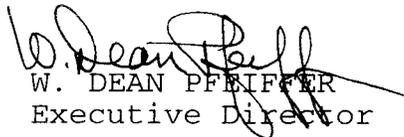
In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your youth, the documentation you submitted showing that you are now a member of the Army National Guard and desire corrections to your record so that you can enter a commissioning program. The Board found that these factors were not sufficient to warrant recharacterization of your discharge or to change the reason for your discharge. Regulations require the assignment of an RE-4 reenlistment code when an individual is discharged 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. The Board concluded that a correction to your record is not warranted.

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