



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

CRS
Docket No: 10707-07
23 June 2008

[REDACTED]

[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 11 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 28 November 2001 after more than three years of prior active service. A unit-sweep urinalysis of your unit was conducted on 22 October 2002. On 31 October 2002 you received nonjudicial punishment for the unlawful use of amphetamines and methamphetamines. The punishment consisted of forfeiture of one-half of one month's pay per month for two months, restriction and extra duty for 45 days, and reduction to pay grade E-3. It does not appear that you submitted a timely appeal from the nonjudicial punishment.

On 1 June 2003 an administrative discharge recommended that you be separated from the Navy with a discharge under other than honorable conditions by reason of misconduct due to drug abuse; however, on 21 August 2003 the separation authority directed that you be retained in the Navy because he had concerns about the conduct of the Sailors who had supervised the collection of urine samples on 22 October 2002. On 27 January 2006, while serving as a third class culinary specialist, CS3,E-4, you were honorably discharged by reason of completion of required active service, and assigned a reentry code of RE-6. You were not permitted to

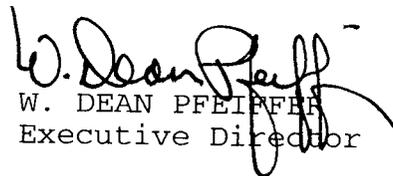
reenlist because you exceeded grade and service requirements of the high-year tenure program.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your overall record of service and contention to the effect that improprieties in the administration and conduct of the unit sweep invalidated the results of the urinalysis. The Board concluded that those factors are insufficient to warrant setting aside the nonjudicial punishment imposed on 31 October 2002 or directing that you be reinstated in the Navy. The Board was not persuaded that the specimen you provided was tampered with, or that you did not use illegal drugs as charged. As service members do not have the right to reenlist at the expiration of their enlistments, you would not be entitled to reinstatement or reenlistment even if the Board were to determine that you had not used illegal drugs. Since you have not established that you should have been promoted to CS2, E-5 prior to the expiration of your enlistment, there is no basis for correcting your record to show that you were discharged in that grade and assigned a more favorable reentry code.

In view of the foregoing, 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