



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

SMS
Docket No: 3444-08
8 January 2009

[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 7 January 2009. 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.

On 18 January 2001, you enlisted in the Navy at age 19. During the period 26 February 2003 to 4 February 2004, you had nonjudicial punishment (NJP) on three occasions. Your offenses included insubordinate conduct, failure to obey a lawful order, two instances of making a false official statement, malingering, and misbehavior of a sentinel. During this period you were also counseled on three occasions regarding deficiencies in your performance and conduct. On 17 January 2005, you received a performance evaluation that recommended retention. On 17 January 2005, while serving in pay grade E-2, you were honorably released from active duty due to completion of required active service and assigned an RE-4 reenlistment code.

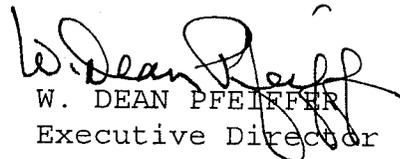
Regulations direct the assignment of an RE-4 reenlistment code to service members who are honorably released from active duty and fail to meet professional growth criteria. Although your

last performance evaluation recommended retention, it appears that you failed to meet professional growth criteria due to your pay grade. Given your three NJP's and 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.

The Board noted that although the Navy may not consider waiving an RE-4 reenlistment code, other branches of the armed forces, such as the Army National Guard, may consider such a waiver.

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