



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

SMS
Docket No: 3690-08
8 April 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 1 April 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 20 November 2001, you reenlisted in the Navy at age 22 after an honorable period of service. During the period 23 July to 10 September 2004, you had nonjudicial punishment on two occasions and a suspended punishment vacated. Your offenses included leaving your appointed place of duty, a brief instance of unauthorized absence, making a false official statement, falsifying an official document, and making a false claim against the government. On 10 September 2004, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct and commission of a serious offense. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 30 September 2004, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 30 September 2004, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your prior period of honorable service, regret for your misconduct, and contention that you did not have an opportunity to state your case. Nevertheless,

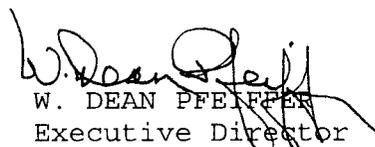
the Board concluded that these factors and contention were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board also noted that you waived the right to have your case heard by an ADB, which was your best opportunity for retention or a more favorable characterization of service. Furthermore, regulations direct the assignment of an RE-4 reenlistment code to members who are discharged due to misconduct. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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 as a result of your prior period of honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

The Board also noted that you should contact the National Personnel Records Center (Code 312-D2), 9700 Page Avenue, St. Louis, Missouri 63132-5100, to request that block 14 of your DD Form 214 specify that you had an honorable period of service from 10 July 1998 to 19 November 2001.

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