



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

SJN
Docket No: 03731-08
2 April 2009

[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 31 March 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.

You enlisted in the Navy and began a period of active duty on 31 October 2000 at age 18. You served over three years without incident until 16 August 2004, when you received nonjudicial punishment (NJP) for an unknown offense.

Based on the information currently contained in your record it appears that you were only advanced to paygrade E-3. On 30 November 2005, you signed an enlisted evaluation covering the period from 16 July to 30 November 2005, stating you were promotable and recommended for retention. However, the report also stated, in part, that you were an average worker, and needed constant supervision to ensure satisfactory results for most assigned task. You were released from active duty and transferred to the Navy Reserve. At that time you were assigned a reenlistment code of RE-4.

For Sailors separated at the expiration of their first period of obligated service, Navy regulations state that professional growth criteria must be met before they may reenlist. The instruction states, in part, as follows:

To satisfy professional growth criteria for the first reenlistment... the member must be: (1) serving as a petty officer or, (2) serving in paygrade E-3 having passed an examination for advancement to paygrade E-4 and be currently recommended for advancement, or (3) have formerly been a petty officer in current enlistment and be currently recommended for advancement to paygrade E-4. Failure to meet the professional growth criteria may result in denial of further extensions or reenlistment...

An individual separated in paygrade E-3 who fails to meet the above criteria may receive a RE-3R reenlistment code if he/she is recommended for advancement to paygrade E-4 at the time of separation. If not, the individual must be assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as the NJP for an unknown offense, your overall record of service, good conduct medal, and the fact that you were recommended for retention at the time of your release from active duty. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in the reenlistment code since the record does not indicate whether all requirements for retention were accomplished. In this regard, Navy regulations state, in part, that although the recommendation means the reporting senior recommends reenlistment or extension based on performance, it does not certify that all reenlistment requirements have been met. Further, the Board believed you received a RE-4 reenlistment code based on being an average worker and that you required consent supervision. 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