



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

SMS  
Docket No: 4516-08  
5 February 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 4 February 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 14 May 2002, you enlisted in the Navy at age 21. During the period 15 November 2002 to 8 January 2004, you had nonjudicial punishment (NJP) on three occasions. Your offenses included two instances of unauthorized absence, dereliction in the performance of your duties, missing the movement of your ship, and assault. On 28 February 2005, you were involved in an unspecified alcohol related incident. During April 2006, you completed an alcohol rehabilitation program. On 27 June 2006, you had NJP for drunken and reckless driving that occurred on 27 May 2006. On 2 August 2006, you completed another alcohol rehabilitation program.

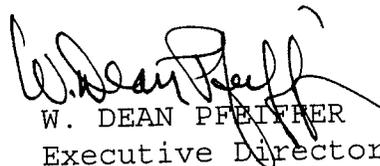
On 30 November 2006, your commanding officer recommended you for retention and requested a waiver for your alcohol rehabilitation failure. On 28 December 2006, the separation authority disapproved the request and directed that you be discharged by reason of non-retention on active duty and

assigned an RE-4 reenlistment code. On 26 January 2007, you were honorably discharged by reason of non-retention on active duty and assigned an RE-4 reenlistment code.

Regulations authorize assignment of an RE-4 reenlistment code to members who are discharged due to non-retention on active duty. Given your misconduct, alcohol rehabilitation failure, and the fact that the separation authorities were ordered to issue you an RE-4 reenlistment code, 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. The Board also noted that you were fortunate to have been honorably discharged due to non-retention on active duty, since your misconduct met the requirements established by regulations for an other than honorable discharge due to misconduct. 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