



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

TJR
Docket No: 7452-08
4 June 2009

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 2 June 2009. The names and votes of the members of the panel will be furnished upon request. 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 on 31 July 2003 at age 25, and began a period of active duty on 29 August 2003. You served without disciplinary incident until 21 March 2006, when you received nonjudicial punishment (NJP) for contempt/disrespect. During the period from 5 to 11 August 2006 you were in an unauthorized absence (UA) status on two occasions for six days. However, the record does not reflect the disciplinary action taken, if any, for this misconduct.

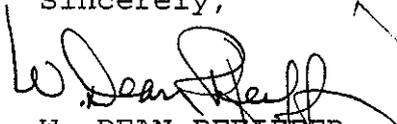
Your record contains an adverse performance evaluation for the period from 16 July 2006 to 15 July 2007 which states, in part, that you failed physical fitness accessions (PFA) on three occasions, did not meet minimum standards due to your conduct, and received numerous counselling sheets. It also states that you were not recommended for retention or reenlistment.

On 28 August 2007, while serving in paygrade E-3, you were honorably released from active duty and transferred to the Navy Reserve. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of satisfactory service and desire to have your RE-4 reenlistment code changed to reflect a more favorable code due to your failure to pass three PFAs. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your reenlistment code. The Board further concluded that your military deficiencies, to include an NJP and two periods of UA, as well as the nonrecommendation for retention or reenlistment were sufficient to support the assignment of an RE-4 reenlistment code. Finally, such a code is authorized by regulatory guidance and normally assigned to Sailors who are serving in paygrade E-3 and have not met the professional growth criteria for advancement to paygrade E-4. Accordingly, your application has been denied.

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