



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

SJN
Docket No: 07794-08
17 September 2008



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 9 September 2008. 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 11 March 2002. On 29 January 2003, you received nonjudicial punishment (NJP) for use of ecstasy. You received a forfeiture of pay, a reduction in paygrade, restriction, and extra duty.

On 3 February 2003, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 7 February 2003, you received NJP for underage consumption of alcohol while serving restriction.

On 13 February 2003, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 27 February 2003, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. On 3 July 2003 you were so discharged. At that time, you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and post-service accomplishments. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in the reenlistment code, because of your misconduct that resulted in two NJP's, one of which was for drug use. In this regard, an RE-4 reenlistment code is required when an individual is separated due to misconduct. Further, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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