



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

TJR
Docket No: 8762-08
14 July 2009

[REDACTED]

[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 7 July 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 25 June 2002 at age 17 and began a period of active duty on 17 June 2003. You served without disciplinary infraction until March 2005 when you were counselled regarding deficiencies in your performance and conduct, specifically, three periods of unauthorized absences (UA), unsatisfactory performance, and writing checks with insufficient funds. On 23 March 2005 you received nonjudicial punishment (NJP) for a two day period of UA. About two months later, on 31 May 2005, you were again counselled regarding your unsatisfactory performance. Your superiors stated, in part, that you had destroyed all of your creditability, there was no longer any shred of trust or faith in your statements, and you had become an administrative burden as evidenced by your NJP and numerous financial issues.

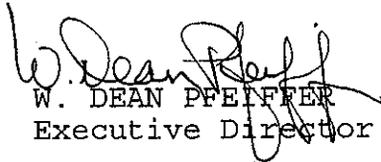
As a result of the foregoing, on 5 June 2005, you were advised that you were not recommended for reenlistment and would be assigned a restrictive reenlistment code of RE-4 because of your pattern of misconduct. On 11 June 2005 you received your second NJP for absence from your appointed place of duty.

On 13 June 2005 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended discharge by reason of misconduct due to a pattern of misconduct. On 14 June 2005 the discharge authority approved this recommendation and directed your commanding officer to issue you a general discharge by reason of misconduct, and on 17 June 2005 you were so discharged and 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 youth and desire to change your reenlistment code so that you may reenlist in the armed forces. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge of a change your reenlistment code because of the seriousness of your repetitive misconduct which resulted in two NJPs and multiple counselling for your repetitive misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural right to consult with legal counsel and to present your case to an ADB. 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