



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

TJR
Docket No: 2258-09
17 February 2010

[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 3 February 2010. 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 27 January 1997 at age 19. You served without disciplinary incident until 30 May 2000, when you received nonjudicial punishment (NJP) for failure to obey a lawful order. The punishment imposed was restriction and extra duty for 30 days, reduction to paygrade E-3, and a \$500 forfeiture of pay. A portion of the punishment was suspended for six months. However, this punishment was vacated because about four months later, on 22 September 2000, you received NJP for unspecified offenses. You received your third NJP on 4 October 2000 for wrongful use of an illegal controlled substance.

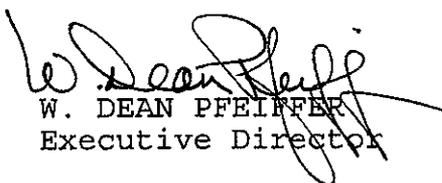
Your record contains an adverse performance evaluation dated 24 January 2001 which states, in part, that your performance was below average, you were awarded NJP, and failed to maintain eligibility for access to classified material. Your record also contains an administrative remarks entry dated 26 January 2001 which states that you were awarded a discharge under honorable conditions due to being awarded NJPs.

On 26 January 2001, upon completion of your required active service, you were released from active duty under honorable conditions and transferred to the Navy Reserve. At that time you were not recommended for retention or reenlistment and were assigned an RE-4 reenlistment code. On 4 November 2004, at the expiration of your enlistment, you were issued a general discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to change your reenlistment code so that you may enlist in the Coast Guard. Nevertheless, the Board concluded these factors were not sufficient to warrant a change of your reenlistment code because of your repetitive misconduct which resulted in three NJPs and included the use of a controlled substance. Finally, a discharge is not automatically upgraded due solely to the passage of time or an individual's good post service conduct. 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