



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

REC  
Docket No: 02402-09  
18 December 2009



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 16 December 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.

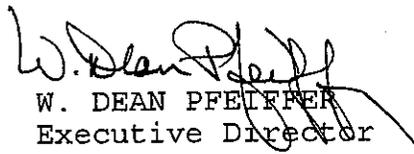
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board substantially concurred with the comments contained in the advisory opinion.

You enlisted in the Navy on 30 January 2005, at age 19. On 3 March 2005, you received nonjudicial punishment (NJP) for making a false official statement, operating a vehicle while intoxicated and disorderly conduct. On 23 June 2005, you received NJP for insubordinate conduct. On 30 June 2005, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You requested an administrative discharge board (ADB), which voted three to zero in your favor to remain in the Navy. However, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. He stated that you continued insolence, defiance to rules and regulations, and failed to exhibit basic courtesies to those around you with reasonable deference to those in positions of authority over you, showed unyielding character and very poor compatibility with the naval service. On 26 October 2005, the discharge authority directed a general discharge by reason of misconduct. You were so discharged on 22 November 2005.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity. However, the Board found that these factors were not sufficient to warrant any change in your RE-4 reenlistment code or character of service, given your record of two NJP's for misconduct. The Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is found to have committed 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