



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

TAL
Docket No: 02757-09
8 January 2010

[REDACTED]

[REDACTED]

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 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.

You enlisted in the Navy and began a period of active duty on 3 December 2002 at age 33. On 20 December 2007, you were the subject of a joint investigation by Immigration and Customs Enforcement (ICE) and the Diplomatic Security Service (DSS). You were suspected of being a Visa overstay as well as having provided a false statement in the application and use of a passport and making fraudulent and false statements. As a result of your pending indictment in United States District Court, your commanding officer initiated administrative discharge action by reason of fraudulent entry as evidenced by your inability to establish U.S. citizenship. On 7 October 2008, the commanding officer recommended that you be separated with a general discharge under honorable conditions due to fraudulent enlistment. On 31 October 2008, the separation authority directed an honorable discharge by reason of fraudulent enlistment. You were so discharged on 14 February 1973. 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 overall record of service. However, the Board found that these factors were not sufficient to warrant changing your reenlistment code given the fact that you failed to establish your U.S. citizenship and the pending charges in U.S. District Court. Finally, an RE-4 reenlistment code must be assigned to all Sailors discharged due to fraudulent entry into the military. 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