



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

TAL
Docket No: 2979-09
19 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 5 January 2010. 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.

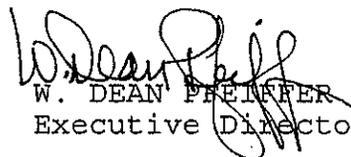
You enlisted in the Navy and began a period of active duty on 15 June 1995 at age 19. On 4 June 1995, you were advised that you were being retained in the Navy despite your fraudulent induction as evidenced by your failure to disclose required basic enlistment eligibility information, a parking violation in December 1993, in San Antonio, Texas and writing a worthless check. At that time you were counseled and warned concerning the consequences of further misconduct. On 28 October 1996, you received nonjudicial punishment (NJP) for dereliction in the performance of duties and sleeping on post. On 24 February 1997, you received NJP for violating a lawful general regulation. Based on the information currently contained in your record it appears that you were subsequently involuntarily processed for administrative separation by reason of misconduct due to a pattern of misconduct. In connection with this processing, you would have acknowledged the separation action and the discharge authority would have approved a recommendation for separation. The record clearly shows that on 2 May 1997, you were discharged

with an other than honorable discharge. 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 and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing your reenlistment code given the seriousness of your misconduct. The Board noted you were counseled and warned concerning the consequences of further misconduct before your two NJP's. Finally, an RE-4 reenlistment code must be assigned to all Sailors discharged due to 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