



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

TAL
Docket No: 3691-09
5 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 27 January 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.

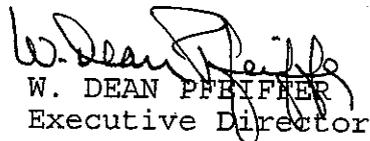
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

Prior to your enlistment in the Navy you signed pre-enlistment documents in which you responded "No" to questions regarding the use of illegal drugs. On 25 July 1991 you enlisted in the Navy at age 19 and served without disciplinary incident. However, on 11 June 1992 you submitted a statement regarding your pre-service drug use of cocaine and lysergic acid diethylamide (LSD) from the age 15 to 19. This statement also noted that you underwent treatment for drug and alcohol abuse. Subsequently, you were notified of pending administrative separation action by reason of defective enlistment due to fraudulent entry as evidenced by your failure to reveal pre-service drug usage at boot camp, and upon application for a security clearance. At that time you waived your rights to consult with legal counsel and submit a statement of rebuttal to the discharge. Shortly thereafter, the discharge authority directed your commanding officer to issue you a general discharge by reason of defective enlistment and induction due to fraudulent entry, and on 19 August 1992, you were so discharged and 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 upgrade your discharge and change your reenlistment code so that you may enlist in the Army. It also considered your assertion that your recruiter changed your statement regarding pre-service drug usage. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your reenlistment code because of the seriousness of your fraudulent entry which was the result of your failure to disclose your complete history of pre-service drug abuse. Finally, there is no evidence in the record, and you submitted none, to support your assertion of recruiter misconduct. 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