



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

TAL  
Docket No: 3764-09  
23 February 2010

[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 3 February 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 18 April 2002 at age 20. On 10 April 2003, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit for a period of 23 days. At that time you were counseled and warned that further misconduct could result in administrative discharge action. On 10 November 2003, you received NJP for a 12 day period of UA from your unit, missing ship's movement and wrongful use of a controlled substance, marijuana. On 25 October 2003, administrative discharge action was initiated to separate you by reason of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 4 January 2004, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions. On 6 January 2004, the discharge authority directed an OTH discharge by reason of misconduct. On 16 January 2004 you were so discharged. 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 desire to change your reenlistment code. It also considered the supporting documentation provided with your application. Nevertheless, the Board found that these factors were not sufficient to warrant changing your reenlistment code given the seriousness of your misconduct. The Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. 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