



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

SJN
Docket No: 04896-09
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, 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 12 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 23 November 1992 at age 20. Based on the information currently contained in your record it appears that as a result of a background investigation, it was discovered that you failed to disclose all of your pre-service police record. As a result of your failure to disclose this information, your commanding officer (CO) initiated administrative discharge action by reason of misconduct due to fraudulent entry. Subsequently, you elected to consult with legal counsel and requested an administrative discharge board (ADB). On 20 May 1993, an ADB found that you had fraudulently enter into the Navy and recommended separation under honorable conditions. On 9 June 1993, your CO concurred with the ADB recommendation and forwarded your case to the discharge authority for review. On 25 June 1993, the discharge authority directed that you be discharged by reason of fraudulent enlistment with a general discharge. You were so discharged on 20 July 1993. At that time you were assigned a RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and belief that your characterization of service would be upgraded after one year. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of his discharge or a change in your reenlistment code due to your failure to disclose your pre-service involvement with civil authorities. Finally, an RE-4 reenlistment code must be assigned to all Sailors discharged due to fraudulent entry, and you are advised that there is no provision in law or Navy regulations that allow for recharacterization automatically after one year or due solely to the passage of time. 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