



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

CRS
Docket No: 7286-09
5 October 2009

[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 23 September 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you served on active duty in the Navy from 25 September to 24 October 2008, when you received an entry level separation by reason of erroneous entry due to pre-service use of marijuana, and were assigned a reentry code of RE-4.

Applicable regulations require the assignment of an RE-4 reentry code to individuals who are separated by reason of erroneous entry based on pre-service abuse of illegal drugs. The Board concluded that there is no error or injustice in your reentry code, and that you have not demonstrated that it would be in the interest of justice for the Board to assign a more favorable code as an exception to policy. The Board also considered your assertion that you lied about your drug abuse in order to be discharged, but could not determine if you lied to procure a discharge or are lying now. In this regard, the law is very clear that an individual who procures a discharge by fraud should not benefit from the fraud when it is discovered. 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