



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

SJN
Docket No: 09771-09
28 June 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 22 June 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.

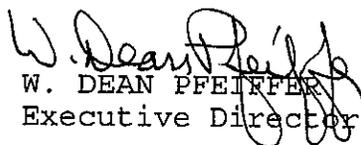
You enlisted in the Navy and began a period of active duty on 29 September 2005. The Board found that you were convicted by summary court-martial (SCM) of wrongfully gambling, and solicitation. You also received nonjudicial punishment (NJP) for disobedience (under age drinking). On 3 July 2009, you received a general discharge due to misconduct by reason of a pattern of misconduct. At that time you were assigned an RE-4 reenlistment code. Your commanding officer stated, in part, that you demonstrated a continued inability to conform to Navy standards.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to change your RE-4 reenlistment code. Nevertheless, the Board concluded these factors were not sufficient to warrant a change of your RE-4 reenlistment given your SCM conviction and NJP. In this regard, you were assigned the appropriate reenlistment code based on your circumstances. Accordingly, your application has been denied.

The Board did not consider whether to upgrade your discharge or change the reason for separation because you have not exhausted your administrative remedy by applying to the Naval Discharge Review Board (NDRB). You may apply to NDRB by submitting the attached DD Form 293.

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

Enclosure