



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

TAL
Docket No: 10685-09
23 July 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 14 July 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.

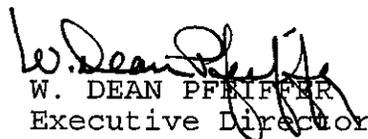
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 1 July 2004 at age 19. You received nonjudicial punishment on two occasions. Your offences included negligently discharging a firearm. Based on the information currently contained in your record it appears that you were subsequently processed for an administrative separation by reason of a pattern of misconduct. In connection with this processing, you would have acknowledged the separation action and the discharge authority would have approved a recommendation for separation. It appears that you waived all of your procedural right, including your right to an administrative discharge board (ADB). Your separation evaluation report for the period of 16 June 2007 through 4 April 2008 stated that you repeatedly failed to meet minimum standards and committed offenses warranting nine formal counselings. The record clearly shows that on 4 April 2008, you were discharged with a general characterization. At that time you were assigned an RE-4 reenlistment code, which means that you were neither recommended nor eligible for reenlistment.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge and reenlistment code given the seriousness of your misconduct. The Board also believed that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when a Sailor is separated for misconduct. The Board noted that you waived the right to an ADB, your best chance 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 PFRIFFER
Executive Director