



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

TJR  
Docket No: 12864-09  
1 October 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 21 September 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.

Your record reflects that on 2 April 1990 you signed pre-enlistment documents in which you stated "NO" to drug and alcohol abuse questions. You also enlisted in the Navy on 2 April 1990 at age 21 and began a period of active duty on 23 July 1990. You served without disciplinary infraction, however, on 30 July 1990, a drug and alcohol report stated, in part, that your urine sample tested positive for cocaine. As a result, you were recommended for an administrative separation.

Subsequently, you were notified of administrative separation by reason of defective and fraudulent enlistment due to your positive drug screening. After waiving your procedural rights to consult with legal counsel and not objecting to the separation, the discharge authority directed your commanding officer to issue you an uncharacterized entry level separation by reason of fraudulent entry due to drug abuse, and on 15 August 1990, you were so discharged and were assigned an RE-4 reenlistment code.

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 narrative reason for separation and presumably your reenlistment code so that you may presume a career in the reserves. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your narrative reason for separation or reenlistment code because of your failure to disclose your pre-service drug abuse as evidenced by your positive urinalysis for cocaine. The Board concluded that your positive urinalysis was sufficient to support fraudulent entry and the assignment of an RE-4 reenlistment code, both of which are authorized by regulatory guidance. Accordingly, your application has been denied.

The Board suggested that, if you wish, you may apply for a waiver of your RE-4 reenlistment code with branches of the armed forces other than the Navy.

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 PFENPFER  
Executive Director