



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

REC
Docket No: 01040-10
15 October 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 14 October 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.

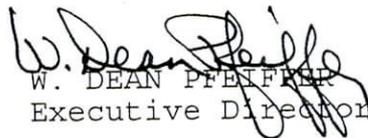
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 20 November 2001, and began a period of active duty on 9 January 2002, at age 17. On 5 February 2002, you were referred to a Recruit Evaluation Unit (REU) for a mental health assessment which was conducted and you were diagnosed with an oppositional defiant disorder. You disclosed that at age 14 you had thoughts of suicide, used marijuana daily prior to your enlistment, and during your time at recruit training command, you could not handle having people "in your face", or telling you what to do. You were counseled regarding your condition, and advised to seek treatment after separation. Based on the mental health evaluation, and the fact that you failed to disclose your previous suicidal ideation, you were processed for separation by reason of erroneous entry due to your diagnosed adjustment disorder. On 7 February 2002, after you were advised of your rights, you elected to receive copies of documents to be forwarded to the separation authority, but waived all your other procedural rights. Subsequently, on 13 February 2002, you were discharged with an uncharacterized entry level separation by reason of erroneous entry (other). At that time, you were assigned a reenlistment code of RE-4.

In its review of your application, the Board considered all mitigating factors, such as your youth and record of service. Nevertheless, the Board found these factors were insufficient to warrant changing your reenlistment code due to your diagnosed adjustment disorder. The Board noted that applicable regulations authorize an uncharacterized discharge for individuals who are separated due to a medical diagnosis of an adjustment disorder and are processed for erroneous entry. Further, it is well settled in the law that if a Sailor procures a discharge by fraud, he should not benefit from it when it is discovered. Therefore, if you lied to get out of the military as you contend, no corrective action would be appropriate. The Board thus concluded that there is no error or injustice in your reenlistment code which was correctly assigned under your circumstances. 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