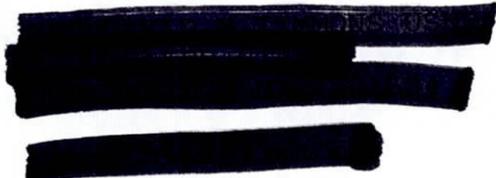




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3127-11
30 March 2011



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 29 March 2011. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that on 30 August 2007 you were the subject of a traffic violation, specifically, operating a vehicle while subject to an impairing substance. You were issued a citation and were advised of a date to appear in civil court if you wished to contest the citation. Nonetheless, on 21 December 2007, you received nonjudicial punishment (NJP) for failure to obey a lawful order and reckless driving. The punishment imposed was a \$3,132 forfeiture of pay. The record reflects that you did not appeal the NJP, and as such, presumably accepted the findings of guilt. You also received (acknowledged and signed) an adverse performance evaluation which noted the NJP and its punishment, and that you had taken corrective measures to recommit to Navy Core Values. Subsequently, on 22 January 2008, the foregoing civil charges were dismissed because the officer who issued the citation did not appear in court.

The Board concluded that your commanding officer's decision to impose the foregoing NJP, and the punishment imposed, was appropriate, and that it was administratively and procedurally correct. It also concluded that the adverse performance

evaluation was administratively appropriate as written and filed. Further, the Board concluded that the civil charges were dismissed based solely on a technicality and does not negate the fact that you were guilty of the offense. As such, the Board concluded that there was no evidence in the record to support removal of the NJP. Finally, the Board noted that you did not appeal the NJP and concluded that its removal from your record is unwarranted, and that such action would be unfair to your peers, against whom you will compete for promotions and assignments. Accordingly, your application has been denied.

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