



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

CRS
Docket No: 324-03
18 August 2003

[REDACTED]

[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 30 July 2003. 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 you enlisted in the Navy on 17 December 2001. The record reflects that you received nonjudicial punishment (NJP) on 27 March 2002 for making a false official statement. In an Administrative Counseling/Warning (page 13) of that same date, you were advised that you were being retained in the service, but warned that further misconduct would result in administrative separation. However, on 6 June 2002 you received NJP for a 29 day period of unauthorized absence, from 28 March to 26 April 2002.

On 11 July 2002 the commanding officer recommended that you be separated with a general discharge by reason of misconduct due to a pattern of misconduct. When informed of this recommendation, you elected to waive the right to submit a statement in response to the discharge action. After review by the discharge authority, the recommendation for separation was approved and on 24 July 2002 you received a general discharge by reason of misconduct. At that time, you were assigned a reenlistment code of RE-4.

An advisory opinion from the Navy Personnel Command dated 26 March 2003, stated that your claim of forged signatures on the 27 March 2002 page 13 counseling and warning entry could not be confirmed. Further, the opinion noted that even if the signatures were forged, you could have still been discharged by reason of commission of a serious offense, due to the false official statement which does not require a page 13 entry.

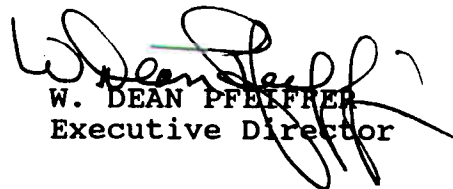
In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and all of the contentions you made in the attachment to your application and the rebuttal to the advisory opinion. However, the Board concluded that these factors and contentions were not sufficient to warrant reinstatement or recharacterization of your discharge, given your disciplinary actions.

Applicable regulations require the assignment of an RE-4 reenlistment code when an individual is discharged due to misconduct. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of your reenlistment code.

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 PFEFFER
Executive Director