



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

CRS
Docket No: 9115-05
28 March 2006

[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 28 February 2007. 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 reenlisted in the Navy on 29 February 2000 after more than four years of prior active service. The record records that on 13 January 2003 you received nonjudicial punishment (NJP) for dereliction of duty and drunk and disorderly conduct. The punishment imposed consisted of a reduction in rate from petty officer second class (GMG2; E-5) to petty officer third class (GMG3; E-4) and restriction for 45 days. On 14 March 2003 you received a second NJP for improper consumption of alcohol. The punishment imposed consisted of reduction in rate from GMG3 to seaman (SN; E-3), restriction and extra duty for 45 days, and a forfeiture of pay, which was suspended.

Your commanding officer initiated administrative separation action by reason of alcohol abuse rehabilitation failure. When informed of this recommendation, you elected to waive your procedural rights. After review by the discharge authority, the recommendation for separation was approved and on 16 May 2003 you received a general discharge. At that time, you were assigned a reenlistment code of RE-4. In his letter forwarding your case to the Bureau of Naval Personnel, the commanding officer stated that

you would not stop drinking.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given your alcohol abuse and two disciplinary actions. Based on the foregoing, the Board concluded that no change to the discharge is warranted.

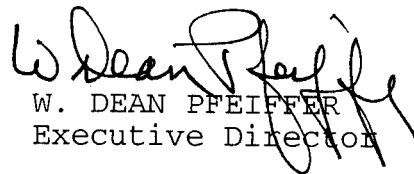
Applicable regulations require the assignment of an RE-4 reenlistment code to individuals discharged because of alcohol abuse rehabilitation failure. Since you have been treated no differently than others discharged for that reason, the Board could not find an error or injustice in the assignment of the RE-4 reenlistment code.

With respect to your contention that the two NJP's were unjust and you should be restored to GMG2, the Board concluded that the evidence supports the commanding officer's determination that you committed the offenses and that reductions in rate were appropriate.

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