



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

BAN
Docket No: 12130-08
25 September 2009

[REDACTED]

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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 17 September 2009. 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 9 July 1998. On 11 July 1998, you were seen by a mental health professional at the recruit training command, received a diagnosis of cocaine dependency and a borderline personality disorder, and were recommended for separation. Therefore, on 20 July 1998, your military contract was voided due to fraudulent enlistment because of undisclosed drug use of marijuana, cocaine, and methamphetamine, and you were separated with an RE-4 reenlistment code.

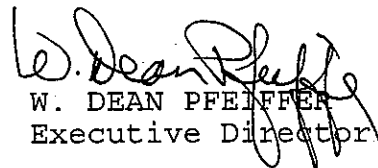
Title 10 United States Code, section 978 provides that the enlistment of any person determined to have been dependent on alcohol or other drugs at the time of enlistment shall be voided, and the individual shall be released from custody and control of the naval service. However, such a determination must be made within 72 hours from the date of enlistment. In your case, a

determination was made 11 July 1998, within 48 hours from the date of your original enlistment.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and claim that you only used drugs once. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to 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 PFEIFFER
Executive Director