



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

TJR
Docket No: 3173-09
8 March 2010

[REDACTED]

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 2 March 2010. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 30 September 1998 at age 24 and began a period of active duty. You served without disciplinary incident until 11 January 2001, when you received nonjudicial punishment (NJP) for failure to obey a lawful order.

On 1 August 2005 you received NJP for two periods of absence from your appointed place of duty and were awarded restriction and extra duty for 30 days, a \$939 forfeiture of pay, and reduction to paygrade E-4. A portion of the punishment was suspended for six months.

Your record contains an enlisted performance evaluation for the period from 16 March to 9 December 2008 which states, in part, that you were to be awarded NJP for drunken and reckless operation of a vehicle, disciplinarily disenrolled from language training, and not recommended for advancement or retention. On

10 December 2008 you received NJP for drunken and reckless driving. The punishment imposed was restriction and extra duty for 45 days, reduction to paygrade E-4, and a \$1,067 forfeiture of pay. Shortly thereafter, you received another evaluation because of your separation due to high-year tenure. Again, you were not recommended for advancement or retention.

On 28 December 2008, upon completion of your required active service, you were honorably discharged. At that time you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to change your reenlistment code so that you may enlist in another branch of service. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your reenlistment code because of the seriousness of your misconduct which resulted in three NJPs. Further, the Board concluded that your misconduct and nonrecommendation for reenlistment were sufficient to support the assignment of an RE-4 reenlistment code, which is authorized by regulatory guidance. Accordingly, your application has been denied.

The Board suggested that you may wish to apply for a waiver of your RE-4 reenlistment code with branches of the armed forces other than the Navy.

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