



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

SMS
Docket No: 3181-09
7 May 2009

[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 6 May 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.

On 18 March 2003, you enlisted in the Navy at age 18. On 4 August 2004, you had nonjudicial punishment for failure to obey a lawful order and two instances of dishonorable failure to pay your debts. On 5 August 2004, you were counseled regarding deficiencies in your performance and conduct, placed on one year of probation, directed to receive counseling and training as required by the Security Training Department, and warned that failure to comply could result in administrative separation. On 4 March 2005, you were counseled regarding the denial of your interim security clearance due to indebtedness, questionable conduct and judgment, and warned that further infractions could result in disciplinary action or an other than honorable discharge. On 8 March 2005, you were ordered by a civilian court to pay a judgment in the amount of \$1604.10. On 15 March 2005, your car was repossessed for overdue payments of \$794.46, and on 7 April 2005, garnishment was issued due to your default on the court order dated 8 March 2005.

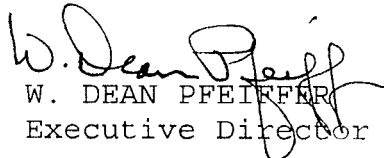
On 2 May 2005, your commanding officer initiated administrative separation by reason of misconduct due to commission of a serious offense. In connection with this processing, you acknowledged the separation action and that it could result in no less than a general discharge. On 9 May 2005, the separation authority approved the recommendation and directed a general discharge by reason of misconduct due to commission of a serious offense. On 24 May 2005, you were so discharged and assigned an RE-4 reenlistment code.

Regulations direct assignment of an RE-4 reenlistment code to members who are 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 the RE-4 reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board noted that you also requested that your general discharge be upgraded to honorable, but the Board did not consider it since you have not exhausted your administrative remedy by submitting the attached Application for the Review of Discharge or Dismissal from the Armed Forces of the United States (DD Form 293) to the Naval Discharge Review Board.

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

Enclosure

Copy to:
The Honorable Charlie Melancon