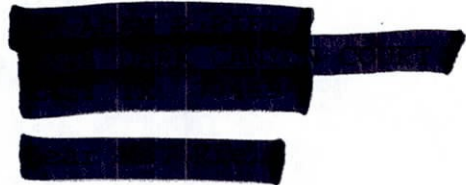




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3488-10
17 February 2011



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 15 February 2011. 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 27 May 2004 at age 20 and served without disciplinary incident. Shortly thereafter, on 18 June 2004, you were referred for an evaluation after complaints of depressed and hopeless feelings, anxiousness, being socially withdrawn, and having crying spells, decreased sleep and appetite, and poor concentration. You were diagnosed with an attention-deficit/hyperactivity disorder (ADHD), a condition which existed prior to your enlistment. At that time you were recommended for an expeditious administrative separation because you posed a risk to yourself or others if retained.


On 22 June 2004 you were notified of pending administrative separation by reason of fraudulent entry due to your failure to disclose your pre-service psychiatric treatment for ADHD. You did not object to the separation and waived your right to submit a separation rebuttal statement. Subsequently, the discharge authority directed your commanding officer to issue you an

uncharacterized entry level separation by reason of fraudulent entry, and on 29 June 2004, while serving in paygrade E-1, you were so discharged 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 reenlist. It also considered the character reference letter provided in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your reenlistment code because of your diagnosed ADHD and failure to disclose the existence of this condition. Further, the Board concluded that the diagnosed ADHD and nonrecommendation for retention or 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.

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