



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

SJN
Docket No: 04853-10
3 March 2011

[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 1 March 2011. 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.

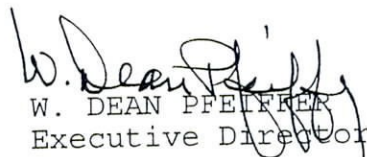
You enlisted in the Navy and began a period of active duty on 24 January 2001. The Board found that you were convicted by civil authorities of driving under the influence (DUI) of alcohol, and received two nonjudicial punishments (NJP's) for two periods of unauthorized absence (UA) and making a false official statement. Additionally, you were counseled and warned that further misconduct could result in administrative discharge action. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. On 14 March 2006, your commanding officer forwarded his recommendation for separation stating, in part, that despite the counseling and warnings, you continued to commit misconduct, that you were incapable or simply unwilling to adhere to the rules and regulations of the command and Navy, and unwilling to conduct yourself in a manner conducive to good order and discipline. The separation authority concurred and you received a general discharge due to misconduct. At that time, you were assigned a RE-4 reentry code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board found that these factors were not sufficient to warrant a change in your reentry code given your civil conviction for DUI, two NJP's, and fact that you were warned of the consequences of further misconduct. An RE-4 reentry code is routinely assigned under such circumstances. Finally, the Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is discharged for misconduct. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider whether to upgrade your discharge or change the reason for separation because you have not exhausted your administrative remedy of applying to the Naval Discharge Review Board (NDRB). You may apply to NDRB by submitting the attached DD Form 293.

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