



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

TAL
Docket No: 7435-10
8 April 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 6 April 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 6 February 2007 at age 19. Based on the information currently contained in your record it appears that you were subsequently involuntarily processed for an entry level separation by reason of fraudulent entry (drug abuse). In connection with this processing, you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. The record clearly shows that on 3 April 2007, you were discharged with an uncharacterized entry-level separation by reason of fraudulent entry (drug abuse). At that time you were assigned an RE-4 reentry code, which means that you were neither recommended nor eligible for reenlistment.

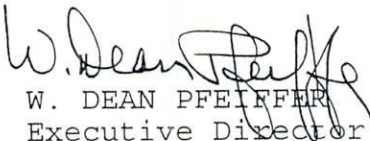
The Board in its review of your application carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board concluded that these factors were not sufficient to warrant changing your reentry code given the seriousness of your misconduct. Finally, it is well settled in the law that if a Sailor procures a discharge by fraud, he should not benefit from the fraud when it is

discovered. Therefore, if you lied to get out of the military as you contend, no corrective action would be appropriate. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Each branch of the armed forces establishes its own criteria for enlistment within the provisions of federal law. The reentry code assigned by the Navy is not binding upon the other services, which are free to accept or reject an application on the basis of their own standards. If another branch of service decides to waive your reentry code and accept you for enlistment, the Navy will not object.

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