



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

TJR
Docket No: 10211-10
29 June 2011

[REDACTED]

[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 28 June 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.

Your record reflects that in December 2002 you signed pre-enlistment documents in which you answered "NO" to questions regarding a history of mental and medical health problems and the use of illegal or prescription drugs. Subsequently, on 30 June 2003, you enlisted in the Navy at age 23 and immediately began a period of active duty. The record reflects that you served without disciplinary incident and were promoted to paygrade E-6.

In February 2009, during a separation evaluation, you answered "YES" to questions regarding your history of mental health problems and drug abuse, which was contrary to your responses in December 2002. In this regard, you stated that you had received counselling, experienced depression or excessive worry, were evaluated or treated for a mental condition, had attempted suicide, and had used illegal drugs or abused prescription drugs.

On 2 February 2009 you were notified of administrative separation by reason of defective and fraudulent enlistment due to your failure to disclose pre-service drug abuse. You did not object


to the separation and subsequently waived your procedural rights to consult with legal counsel and an administrative discharge board. Subsequently, your commanding officer recommended an honorable discharge by reason of fraudulent entry. On 4 February 2009 the discharge authority approved this recommendation and directed your commanding officer to issue you an honorable discharge by reason of fraudulent entry, and on 27 February 2009 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 period of honorable service and desire to change your reenlistment code and the narrative reason for separation so that you may reenlist in the armed forces. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your reenlistment code or narrative reason for separation because of your failure to disclose your pre-service drug abuse and mental health problems. The Board concluded that your failure to disclose this information was 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, if you wish, you may 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