



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 4947-98

22 April 1999

[REDACTED]

Dear [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 20 April 1999. 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. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 11 February 1999, a copy of which is enclosed.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. In reaching its decision, the Board noted that your separation due to an erroneous enlistment appears to be correct because you would not have been enlisted if the Navy had known about the pending criminal charges. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000


5420

NPC-832C

11 Feb 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS (BCNR)


Via: NPC/BCNR Coordinator (NPC-00ZCB)

Subj: 

Encl: (1) BCNR File 04947-98
(2) Petitioner's Microfiche Record

1. The petition and naval records of subject petitioner have been reviewed relative to his request for change of reenlistment code to RE-1.

2. The review indicates that prior to enlistment petitioner admitted to an arrest in Jun 92 for carrying a concealed gun in school and another arrest in Jun 94 for carrying a concealed gun to a party where a shooting occurred. Subsequent to enlistment in Jan 96, he was arrested for a shooting incident which happened a few days before he arrived at recruit training. Even though the civilian authorities failed to prosecute the case due to insufficient evidence, I am unconvinced that he had no involvement. Prosecuting a case requires eyewitness testimony at trial which is often difficult to obtain due to fear of repercussion. I believe that the petitioner has exhibited a propensity to unlawfully carry weapons and has developed a pattern of behavior and associations that could be considered detrimental. The discharge he received from RTC Great Lakes was relatively innocuous considering the circumstances. His allegation that the discharge was unjust is unfounded. Therefore, favorable action on this petition is not recommended.


Technical Advisor
To the Head, Enlisted
Performance Branch