



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

ELP
Docket No. 715-01
7 June 2001

[REDACTED]

Dear [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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 6 June 2001. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 3 January 1996 for four years at age 20. The record reflects that you served without incident until 6 March 1996, when you were formally counseled for touching several female recruits in an aggressive and sexual manner. You were warned that failure to correct your behavior could result in administrative separation under other than honorable conditions.

On 9 May 1996 you were convicted by summary court-martial of an unauthorized absence (UA), from 27 March to 15 April 1996. You were sentenced to confinement at hard labor for 19 days and a forfeiture of two-thirds of month's pay.

On 17 May 1996 you were notified that administrative separation action was being initiated by reason of entry level performance and conduct. You were advised of your procedural rights, declined to consult with legal counsel or submit a statement in your own behalf, and waived the right to have your case reviewed

by the general court-martial convening authority. Thereafter, the discharge authority directed an uncharacterized entry level separation by reason of entry level performance and conduct. You were so discharged on 24 May 1996 and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals separated by reason of entry performance and conduct. The Board noted your regret for the mistakes which led to your discharge and the contention that your actions did not deserve such a restrictive reenlistment code. However, the Board noted that it is rare for an individual to receive a disciplinary action during recruit training, let alone a court-martial. The Board could find no error or injustice in your assigned reenlistment code since you were treated no differently than others separated under similar circumstances. The Board concluded that the reenlistment code was proper and no change is warranted. 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