



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

ELP  
Docket No. 1035-01  
20 July 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 of the Board for Correction of Navy Records, sitting in executive session, considered your application on 18 July 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.

You enlisted in the Naval Reserve on 15 March 1995 for eight years at age 21. You were ordered to active duty for a period of three years on 21 March 1995 as an AA (E-2). You were advanced to AN (E-3) and served for a year without incident. However, during the five month period from March to August 1996, you received three nonjudicial punishments (NJP) for a three day period of UA, disrespect, and assault.

On 15 August 1996 you were notified that you were being considered for discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct and commission of a serious offense. You were advised of your procedural rights, declined to consult with legal counsel and waived the right to present your case to an administrative discharge board (ADB). However, you submitted a statement to the effect that there were extenuating circumstances surrounding your three NJPs, the reductions in rate and forfeitures awarded at NJP had created a severe hardship on you and your family, your wife had left you with two children, and a discharge under other than honorable conditions would hamper your ability to support your family.

On 20 August 1996 the commanding officer (CO) recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct and commission of a serious offense. The CO stated that your continued misconduct showed a flagrant disregard for rules and regulations and adversely affected the good order and discipline of the command. The discharge authority approved the recommendation and directed discharge under other than honorable conditions. You were so discharged on 30 August 1996.

The Naval Discharge Review Board denied your request for an upgrade of your discharge on 12 September 1997.

In its review of your application the Board conducted a careful search of your service records for any mitigating factors which might warrant a recharacterization of your discharge. However, no justification for such a change could be found. The Board noted that at the time of enlistment you were a high school graduate, older than the average recruit, had test scores indicating average intelligence, and apparently possessed all the requisite skills to successfully complete an enlistment. The Board concluded that recharacterization of your discharge was not warranted given your record of three NJPs, one for the serious offense of assault, in only 17 months of service. The Board noted the aggravating factor that you waived your right to an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board noted your contention of family problems. While the Board is sympathetic to individuals with such problems, the evidence indicates that these problems were caused partially by your own misconduct. The Board concluded that the discharge 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