



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

ELP
Docket No. 1038-01
20 July 2001



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.

The Board found that you enlisted in the Marine Corps Reserve on 14 July 1989 for eight years at age 17. The record reflects that you completed two periods of active duty for training from June-September 1990 and February to May 1991. You were advanced to LCPL (E-3) in August 1991. However, in October 1992 you were not recommended for CPL (E-4) due to a lack of maturity and leadership.

Subsequently, you failed to report for a regularly scheduled drill on 24 June and your active duty for training from 25 June to 11 July 1993. You were notified that should this unsatisfactory participation continue, you could be discharged under other than honorable condition. The following day you acknowledged receipt of the foregoing notification and declined to make a statement.

On 9 August 1993 you were notified that administrative discharge action was being initiated by reason of unsatisfactory parti-

icipation in the Ready Reserve for missed drills on 24 June and 1-8 August 1993, and for failure to report for active duty from 25 June to 11 July 1993. You were advised of your rights, declined to consult with legal counsel or submit a statement in your own behalf, and waived the right to present your case to an administrative discharge board (ADB). Thereafter, the officer-in-charge (OINC) recommended to the discharge authority that you be discharged under other than honorable conditions by reason of unsatisfactory participation. In a separate statement to the discharge authority's staff judge advocate concerning your suitability for further service, the OINC noted that he had contacted you to determine why you had missed drill on 24 June 1993, and you told him you were having personal problems and would not be coming back to the Marine Corps. You explained that you were worried that the mother of your illegitimate child was going to try and kidnap the child and did want your mother to baby sit the child. The OINC further noted that you were aware of your scheduled active duty for training and had sufficient time to make arrangements for child care, but you did not make the unit aware of problems until after your missed a drill and the period of active duty.

By letter of 29 March 1994, the discharge authority directed discharge under other than honorable conditions by reason of unsatisfactory participation in the Marine Corps Reserve, and assigned an RE-4 reenlistment code.

The Board noted that you request a change in your reenlistment code. Reservists are not assigned reenlistment codes upon discharge from inactive duty. However, the fact that the discharge authority, in his letter of 29 March 1994, directed assignment of an RE-4 reenlistment code is harmless error. An RE-4 reenlistment code means that an individual is not recommended for reenlistment. Therefore, an RE-4 reenlistment code and "not recommended for reenlistment" are synonymous. Your discharge under other than honorable conditions essentially precludes any consideration for reenlistment. Accordingly, it is appropriate that the record show that you are not recommended for reenlistment.

The Board did not consider the characterization of your discharge since you have not exhausted your administrative remedies by first applying to the Naval Discharge Review Board (NDRB). The NDRB is authorized to change both the reason for discharge and the characterization of discharge. Enclosed is a DD form 293 which may be used to apply to the NDRB.

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