



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

ELP
Docket No. 1840-01
19 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 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 29 December 1986 for four years at age 21. The record reflects that you were advanced to AN (E-3) and served without incident until 21 March 1990, when you received nonjudicial punishment (NJP) for an eight day period of unauthorized absence, missing ship's movement, and making a false official statement. Punishment imposed consisted of reduction in rate to AA (E-2), forfeitures of \$406 per month for two months, and 60 days of restriction. Incident to your release from active duty you were informed that you were ineligible for reenlistment due to failure to meet the professional growth criteria. On 21 December 1990 you were honorably released from active duty, transferred to the Navy Reserve, and assigned an RE-4 reenlistment code. You were honorably discharged on 28 December 1994 upon fulfillment of your military obligation.

Your contentions that an RE-4 reenlistment code is reserved for individuals discharged under other than honorable conditions or

with a bad conduct discharge is untrue. The fact that you had only one NJP, otherwise excellent service and an honorable release from active duty did not preclude the assignment of an RE-4 reenlistment code. Actually, reenlistment is not authorized for individuals separated in pay grades E-1 and E-2, and regulations required the assignment of an RE-4 reenlistment code to such individuals.

The Board noted the enlisted performance evaluations submitted in support of your application did not include the one submitted upon separation. The Board also considered your contentions concerning the NJP which reduced you in rate and your post-service accomplishments. However, the Board noted that the NJP evidence no longer exists. Absent such evidence a presumption exists that the commanding officer did not abuse his discretion when he imposed NJP on 21 March 1990.

Since you were treated no differently than others separated under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. 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