



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

ELP
Docket No. 4529-01
19 October 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 17 October 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 Navy on 11 July 1989 for four years as an SA (E-2). The record reflects that you were dropped from ET A" school for administrative reasons and were subsequently assigned to AMS "A" school.

You served without incident until 5 March 1990 when you received nonjudicial punishment (NJP) for a brief period of unauthorized absence (UA) and failure to obey a lawful order. Thereafter, you were formally counseled regarding the period of UA and failure to obey a lawful order. You were warned that failure to take corrective action regarding your misconduct could result in administrative separation.

During the next 20 months, you served without further incident, were advanced to AMSAN, and extended your enlistment for a period of 17 months. However, during the three month period from December 1992 to 5 February 1993, you received two more NJPs for three brief periods of UA totaling about nine hours, a three day period of UA, and writing 24 bad checks totalling nearly \$2,000.

On 5 February 1993 you were notified that administrative discharge action was being initiated by reason of misconduct due to commission of a serious offense and minor disciplinary

infractions. You were advised of your procedural rights and told that if discharge was approved, it could be under other than honorable conditions. You declined to consult with legal counsel and waived the right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge under other than honorable conditions. On 11 February 1995 the Chief of Naval Personnel directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 19 February 1993 and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals who are discharged by reason of misconduct due to commission of a serious offense. Since you were treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. The Board concluded that the reenlistment code was proper and no change is warranted.

The Board did not consider the characterization of your discharge since you have not exhausted your administrative remedies by first petitioning the Naval Discharge Review Board. That board is authorized to change both the reason for discharge and the characterization of discharge. However, it cannot change a reenlistment code. Enclosed is a DD Form 293 that you may use to apply to that board.

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