



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 7693-00
30 March 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 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 18 April 1995 for four years as an SN (E-3). The record reflects that you served for eight months without incident. However, during the seven month period from December 1995 to June 1996 you received four nonjudicial punishments (NJP) for 18 unspecified violations of Article 86 of the Uniform Code of Military Justice, presumably for failure to go to your appointed place of duty; two instances of disrespect; and disobedience of a general order. After your first NJP, you were formally counseled regarding your misconduct and warned that failure to take corrective action could result in administrative separation under other than honorable conditions. As a result of the foregoing NJPs, you were reduced SR (E-1).

On 30 July 1996 you were notified that you were being recommended for discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. You were advised of your procedural rights, declined to consult with legal counsel, and elected to waive your right to an administrative discharge board (ADB). On 10 September 1996, the Chief of Naval Personnel

approved the commanding officer's recommendation and directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. You were so discharged on 10 September 1996.

On 29 January 1999, the Naval Discharge Review Board (NDRB) denied your request for an upgrade of your discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity. The Board also considered the issues you presented to the NDRB. The Board noted your contentions that you were told you would receive a general discharge and that a problem with your military pay created a hardship, repossession of your car, legal problems, and the implication it was a contributing factor in the misconduct which led to your discharge. With regard to your pay problem, the Board could not determine what correction, if any, you were seeking or what relevance your mother's telephone bill and a credit union check made out to you had to the misconduct which led to your discharge. Your contention that you were to receive a general discharge is neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of 21 offenses for which you received four NJPs 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 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