



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

TJR
Docket No: 8705-00
11 June 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 Naval Records, sitting in executive session, considered your application on 5 June 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 21 October 1994 at the age of 20. Your record reflects that on 2 February 1995 you received nonjudicial punishment (NJP) for failure to obey a lawful order. The punishment imposed was a \$790.20 forfeiture of pay and restriction and extra duty for 45 days. On 7 December 1995 a civil court found that you had improperly failed to pay rent. A deferred judgment was entered against you, and you were ordered to pay \$551.25 and court costs.

Your record further reflects that on 24 April 1997 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense as evidenced by self admitted spousal abuse. After consulting with legal counsel you submitted a written statement in rebuttal to the discharge. The commanding officer recommended you be issued a general discharge by reason of misconduct. The discharge authority approved this recommendation and directed a general discharge by reason of misconduct due to commission of a serious offense, and on 9 May 1997 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that because of your divorce proceedings your narrative reason for separation and reenlistment code should be changed to hardship and RE-3, respectively. However, the Board concluded these factors and contention were not sufficient to warrant a change in the narrative reason for separation or reenlistment code because of the serious nature of your misconduct, specifically, your spousal abuse. The Board also noted the other misconduct of record. Further, the Board noted that there is no evidence in your record, and you submitted none, to support your contention. When an individual is discharged by reason of misconduct, an RE-4 reenlistment code is required. Given all the circumstances of your case, the Board concluded your narrative reason for separation and reenlistment code were 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