



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

ELP
Docket No. 7475-01
28 February 2002

[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 27 February 2002. 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 September 1978 for four years at age 17. The record reflects that you were advanced to SMSN (E-3) and served until 19 October 1980, when you and five other Sailors from two different ships became involved in a scuffle with five Royal Navy Sailors, one of which was stabbed in the abdomen. You and another Sailor were charged with misdemeanor assault. The other Sailor admitted to assaulting a Royal Navy Sailor with a knife. On 21 October 1980 the commanding officer reported to appropriate authorities that you and the other Sailor had been tried and you were fined \$366.50.

On 3 November 1980 the Chief of Naval Personnel advised the command that it planned to take no separation action on the foregoing matter. You were to be retained and warned that any further misconduct could result in processing for discharge under other than honorable conditions.

You served without further incident until 22 June 1981 when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and failure to obey a lawful order. Punishment imposed was a forfeiture of \$300, 30 days of extra duty, and a suspended reduction in rate to MSSA (E-2). However, you were advanced to SM3 (E-4) on 16 August 1981.

The Enlisted Performance Record (page 9) indicates that the performance evaluation on 30 June 1982 and the one submitted incident to your release from active duty assigned adverse marks of 2.8 in the marking category of professional performance, and you were not recommended for reenlistment. On 7 September 1982 you were honorably released from active duty, transferred to the Naval Reserve, and assigned an RE-4 reenlistment code. You were honorably discharged upon completion of your military obligation on 17 September 1984.

Regulations require the assignment of an RE-4 reenlistment code to individuals not recommended for reenlistment. Your contention that the ship's legal officer was racially biased and had threatened to "mess" with the records belonging to black Sailors is neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board concluded that a civil conviction, an NJP, and two adverse marks in professional performance during the last four months of your enlistment provided sufficient justification to warrant a non-recommendation for reenlistment and assignment of an RE-4 reenlistment code. The Board thus concluded that the reenlistment code 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