



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

CRS
Docket No: 8050-01
15 July 2002

[REDACTED]

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This is in reference to your application for reconsideration 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 10 July 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 19 June 1991 at age 18. The record reflects that you received two nonjudicial punishments. The offenses included assault and dereliction of duty. Subsequently, on 5 January 1994 you were convicted by civil authorities of being an accessory after the fact in an armed robbery. The court sentenced you to probation for six months, 50 hours of community service, and court costs of \$253.

On 9 May 1994 an administrative discharge board recommended that you be separated with an other than honorable discharge by reason of misconduct due to commission of a serious offense. After review by the discharge authority, the recommendation for separation was approved and you were discharged on 14 April 1994 with an other than honorable discharge. At that time, you were assigned a reenlistment code of RE-4.

Subsequently, your requests for an upgrade of your discharge was denied by the Naval Discharge Review Board twice and by this Board.

With your current application, you presented as new evidence various letters and certificates documenting postservice educational and vocational accomplishments, and involvement in several community activities. You also submitted information that your civil conviction has been sealed by the courts.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the documentation you submitted for reconsideration. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of the offense of which you were convicted by civil authorities. The Board also noted your two prior disciplinary actions. Therefore, the Board concluded that no change to the discharge is warranted.

Applicable regulations require the assignment of an RE-4 reenlistment code when an individual is discharged due to misconduct. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of your 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