



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

WMP
Docket No: 8177-01
20 March 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the 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 20 March 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 29 July 1977 for four years at age 23 after four years of active service in the U.S. Army. You then reenlisted for six years on 9 March 1979, and extended this enlistment on several occasions.

The record reflects that you were advanced to TM2 (E-5) on 16 January 1980 and served without incident until 6 May 1982 when you received nonjudicial punishment (NJP) for failure to go to appointed place of duty and willfully disobeyed a lawful order. Punishment imposed consisted of forfeitures of \$150 and reduction in rate to TM3 (E-4), with the reduction in rate being suspended for 2 months.

On 21 May 1982 the suspended reduction in rate to TM3 was vacated, and you received a second NJP for absence from your place of duty. Punishment consisted of forfeitures of \$100. Your record remained clear of further disciplinary action until 6 December 1983, when you received NJP for dereliction of duty. Punishment imposed consisted of forfeitures of \$100, with part forfeitures being suspended for six months, and 5 days of extra duty.

Your record further indicates that you participated in and were selected for advancement to TM2 from the September 1985 Navy-wide Advancement Examination. You were frocked to TM2 on 20 December 1985. However, the recommendation for your advancement was removed by the commanding officer on 31 March 1986, prior to your advancement date due to your failure to maintain physical fitness standards. The enlisted performance evaluation for the period of 14 August 1985 until 31 March 1986 indicates that you received adverse (2.8) marks in initiative and the recommendation for advancement was removed. Due to these adverse actions, this evaluation was forwarded to you for comment. Your statement to this evaluation, with the corresponding statement from your commanding officer, indicates that you were not maintaining physical fitness standards, which resulted in removal of the advancement recommendation. Your record shows that you served without further incident until 8 February 1989, at which time you were honorably discharged at the expiration of your term of enlistment. At that time, you were issued an RE-4 reenlistment code due to your active service exceeding the high year tenure (HYT) limitations established for your pay grade.

Regulations provided that the HYT limit for individuals serving in pay grade E-4 was 10 years of active naval service. Reenlistment beyond the HYT limit of 10 years was not authorized and assignment of an RE-4 reenlistment code was required. 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. 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