



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

CRS
Docket No: 8196-01
14 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 Naval Records, sitting in executive session, considered your application on 13 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 17 August 1995 at age 24. The record reflects that on 6 May 1996 you were counseled for uttering worthless checks. On 10 September 1996 you received nonjudicial punishment (NJP) for absence from your appointed place of duty, willful disobedience of a lawful order, and use of provoking speech.

On 11 September 1996 the commanding officer recommended that you be separated with an other than honorable discharge by reason of misconduct due to commission of a serious offense. When informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board (ADB). After review by the discharge authority, the recommendation for separation was approved and you were discharged with an other than honorable discharge on 1 November 1996. At that time, you were assigned a reenlistment code of RE-4.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as the fact that you

received only one disciplinary action. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given the serious offense for which you received NJP, and the prior counseling for other misconduct. Additionally, the Board noted that you waived the opportunity to present your case to an ADB, the one opportunity you had to show that you should be retained or receive a better discharge. 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