



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

WMP
Docket No: 9602-02
1 May 2003

[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 30 April 2003. 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, 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 Naval Reserve on 24 November 1993 and, on 8 February 1994, began a 36 month period of active duty. The record reflects that you served without incident until 10 June 1996, when you received nonjudicial punishment (NJP) for incapacitation for duty due to drunkenness. The punishment imposed was forfeitures of \$427 per month for two months, 30 days of restriction and extra duty, and a reduction in rate to firemen recruit (FR; E-1).

On 29 October 1996 you received NJP for three instances of being disrespectful in language and assault. The punishment imposed was a forfeiture of \$404 and 30 days of restriction and extra duty.

On 2 November 1996 you received an adverse enlisted performance evaluation upon your separation, for the period 16 July to 2 November 1996. In this evaluation, you received adverse marks of 2.0 in the marking categories of professional knowledge, military bearing/character, personal job accomplishment/initiative and teamwork. The overall evaluation mark was 2.33. Your commanding officer did not recommend you for retention and your were progressing towards an advancement recommendation.

On 7 December 1996, you were honorably released from active duty, transferred to the Naval Reserve due to reduction in force, and assigned an RE-4 reenlistment code.

In its review of your application the Board carefully weighed all potentially mitigating factors including your contention that you were forced to sign an incorrect DD Form 214 that indicated that you were an fireman recruit (FR; E-1), and not fireman apprentice (FA; E-2). However, the Board concluded that your DD Form 214 was correct based on your reduction in rate during the NJP of 10 June 1996 and the fact that your record does not show that you were advanced to E-2 after this date or prior to your separation. Furthermore, the Board found that your reenlistment code was appropriately assigned given your two NJP's, and because regulations require the assignment of an RE-4 reenlistment code to all individuals who are released from active duty in paygrades E-2 and below. 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