



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

WMP
Docket No: 9675-02
15 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 14 May 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, 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 15 December 1998 for four years at age 20. On 9 July 1999, you were counseled concerning your poor military performance and warned that further misconduct on your part could result in administrative separation.

On 14 July 1999, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. The punishment imposed was a forfeiture of \$100 and 7 days of extra duty, all of which was suspended for a period of six months. On 19 May 2000, you again received NJP for two instances of unauthorized absence totaling four days and absence from you appointed place of duty. The punishment imposed was 30 days of restriction and extra duty and a reduction in rate.

Although your request for an other than honorable discharge in lieu of trial by court-martial is not in the record, it is clear from available documentation that you submitted such a request. Prior to submitting this request, you would have conferred with a qualified military lawyer and been advised of your rights and warned of the probable adverse consequences of accepting such a discharge. As a result of such action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. You received the other than honorable discharge on 7 July 2000.

The Board did not consider the characterization of your discharge since you have not exhausted your administrative remedies by first applying to the Naval Discharge Review Board (NDRB). That board is authorized to change both the reason for discharge and the characterization of service. However, it cannot change a reenlistment code. Enclosed is a DD Form 293 that may be used to apply to that board.

Regulations require the assignment of an RE-4 reenlistment code to an individual separated for the good of the service in lieu of a trial by court martial. The Board found that your two NJP's and the ensuing request for discharge clearly warranted the assignment of a RE-4 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

Enclosure
DD Form 293