TJR
Docket No: 8767-98
30 June 1999

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 22 June 1999. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 17 March 1986 at the age of 22. Your record reflects that on 14 August 1986 you received nonjudicial punishment (NJP) for larceny. The punishment imposed was restriction for 14 days and forfeitures totalling $100. On 11 February 1987 you received NJP for absence from your appointed place of duty, disobedience, and dereliction in the performance of your duties. The punishment imposed was restriction for 30 days, forfeitures totalling $200, and reduction to paygrade E-2. The reduction was suspended for six months. However, the foregoing suspension was vacated due to your continued misconduct. On 6 March 1987 you received your third NJP for three incidents of absence from your appointed place of duty. The punishment imposed was restriction for 30 days, forfeitures totalling $738, and reduction to paygrade E-1.

Your record further reflects that on 9 March 1987 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. After consulting with legal counsel you elected to present your case to an

administrative discharge board (ADB). On 27 March 1987 an ADB recommended you be issued an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 6 April 1987 your commanding officer also recommended you be issued an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 23 April 1987 the discharge authority approved the foregoing recommendations and on 30 April 1987 you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, post service conduct, and your contention that you would like your discharge upgraded and your reenlistment code changed so that you may reenlist. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change in your reenlistment code given your frequent misconduct which resulted in three NJPs. Additionally, an RE-4 reenlistment code is required when an individual is discharged by reason of misconduct. Given all the circumstances in your case the Board concluded your discharge and reenlistment code were proper as issued 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