



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 625-98

29 April 1999

[REDACTED]

Dear [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 27 April 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 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 27 July 1991 at age 19 and reported to active duty on 10 October 1995. During the period from 17 September 1996 to 25 October 1996 you received nonjudicial punishment on three occasions. Your offenses were six instances of absence from your appointed place of duty, five instances of disobedience and disrespect, and use of indecent language. Subsequently, you were an unauthorized absentee for about three days from 25 to 28 November 1996.

On 2 December 1996 you received your fourth nonjudicial punishment for two periods of unauthorized absence totaling 4 days, disobedience and use of provoking words. That same day you acknowledged that you were being processed for discharge by reason of misconduct and requested that your case be heard by an administrative discharge board (ADB).

On 8 January 1997 you were diagnosed with an unspecified personality disorder with narcissistic, histrionic and schizotypal features. The psychiatrist found that you were responsible for your actions and concluded that administrative processing was appropriate.

On 10 January 1997 the ADB found that you had committed a pattern of misconduct and recommended a general discharge. After review by the discharge authority, this recommendation was approved. You were issued a general discharge on 27 January 1997. At that time you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

In your application you are requesting removal of the nonjudicial punishments from your record and a change in the reenlistment code. You contend, in effect, that your knee injury prevented you from doing many shipboard tasks but the command thought that you were malingering and harassed you to build a case for discharge.

The Board requested the nonjudicial punishment evidence from your command, but no response was received. The Board was aware that nonjudicial punishment evidence is routinely destroyed after two years, and it was determined that any further attempt to obtain that evidence would be futile. However, the Board is also aware that during the nonjudicial punishment proceedings you would have had an opportunity to give your version of events to the commanding officer. Since there is no evidence that the commanding officer abused his discretion, the Board concluded that the nonjudicial punishments should not be removed from your record. The Board further concluded that the punishments were not too severe given the offenses committed.

Concerning the discharge processing, the Board noted that a record of four nonjudicial punishments for multiple offenses was sufficient to support discharge processing due to a pattern of misconduct. Further, an ADB found that you had committed misconduct but recommended a general discharge. Since a discharge under other than honorable conditions was authorized, the Board believed that you were fortunate to have a general discharge and the ADB recommendation meant that considerable clemency was granted in your case.

Regulations require the assignment of an RE-4 reenlistment code when an individual is discharged by reason of misconduct. Since you have been treated no differently than others discharged for that reason, the Board could not find an error or injustice in the assignment of the 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