



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

ELP
Docket No. 3738-01
5 October 2001

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 Navy Records, sitting in executive session, considered your application on 3 October 2001. 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 microfiche records provided for the Board's review were incomplete. However, the Board found that you reenlisted in the Navy on 31 May 1996 for four years as an HN (E-3). At the time of your reenlistment, you had completed more than three years of prior active service. On 22 November 1996 you received a general discharge by reason of misconduct due to commission of a serious offense and were assigned an RE-4 reenlistment code. The discharge processing documentation containing the facts and circumstances surrounding this separation action are not on file in the available records.

On 5 June 2001, you were requested to provide copies of the discharge processing documents, the civil court case you imply was the basis for your discharge, and any pertinent medical records. However, you have not responded to the Board's request.

The Board, in its review of your application, conducted a careful search of available records for any mitigating factors which

might warrant a recharacterization of your general discharge and a change in your reenlistment code. However, no justification for such a change could be found. The Board specifically noted that you failed to respond to the Board's letter of 5 June 2001. Absent the discharge processing documentation, a presumption exists that the action to issue you a general discharge by reason of misconduct was both appropriate and proper. Regulations require the assignment of an RE-4 reenlistment code to individuals separated by reason of misconduct. It is incumbent upon you to provide the necessary documentation to show that the record is in error or that you were treated unjustly by the Navy. You have failed to submit any evidence that would satisfy that requirement. 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