



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

TRG
Docket No: 5569-01
12 December 2001

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 11 December 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.

You reenlisted in the Navy for four years on 19 July 1993. At that time you had completed more than eight years of active duty. In addition you had failed the body fat standards on two occasions. Subsequently, you failed to meet the body fat standards on four additional occasions. Following the third failure, you received nonjudicial punishment (NJP) for missing 10 out of 15 mandatory physical training sessions.

Based on your failure to meet the weight standards, you were processed for an administrative discharge. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. On 29 March 1995, the commanding officer directed an honorable discharge stating, in part, as follows:

(He) has had a documented weight control problem since 1992. Not only had (he) made no improvement, he continues to increase in weight and body fat. Attempts at counseling and nonjudicial punishment have not resolved the problem. Finally, (he) presented a

statement that he voluntarily does not desire to participate in a remedial fitness program.

In the performance evaluation for the period 26 January 1994 to 31 March 1995, you were assigned adverse marks of 2.8 in the categories of military bearing and personal behavior. You were not recommended for advancement but were recommended for retention in the Navy. The evaluation comments state, in part, as follows:

.... excellent Machinist Mate who consistently displays superlative performance However, due to CO's NJP and his failure to comply with the Navy's body fat standards ... he is not recommended for advancement.

You were honorably discharged on 15 April 1995 by reason of weight control failure. At that time you were assigned an RE-4 reenlistment code.

You state in your application that since discharge you have attended weight management and nutrition courses and are now within weight standards. You desire a change in the reenlistment code so you can reenlist and complete your career.

In reaching its decision, the Board noted the comments contained in the commanding officer's letter directing your discharge to the effect that your weight was increasing and you declined to make any effort to lose weight. The Board also noted the NJP for failing to participate in mandatory physical training sessions, which supports the comments that you were not making a sufficient effort to lose weight. Finally, the Board noted the adverse marks in two categories in the last performance evaluation and that you were not recommended for advancement. The Board believed that despite the excellent comments concerning your performance of duty, the adverse marks and comments meant that a recommendation for retention was inappropriate and may have been made in error. The Board concludes that the record supports the assignment of the RE-4 reenlistment code 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