



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

ELP
Docket No. 5850-01
13 December 2001

[REDACTED]

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 12 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 enlisted in the Navy on 19 July 1990 for four years at age 18. You served without incident and were advanced to ABH3 (E-4). On 18 July 1994 you were honorably released from active duty and transferred to the Naval Reserve. You were honorably discharged upon completion of your obligated service on 25 July 1997.

The record reflects that you enlisted in the Naval Reserve on 28 December 1998. However, the enlistment document is not on file in available records. You served without incident until 6 March 1999, when you were placed on report for refusing to submit to a urinalysis test on 30 January 1999.

On 30 March 1999, the command initiated action to separate you by reason of unsatisfactory participation as evidenced by your failure to provide a urine specimen. Notification of this action was sent by certified mail to your last known address. However,

the notification was returned marked as "unclaimed."

The record further reflects that you reenlisted in the Navy on 29 April 1999 for two years as an AN (E-3). You were granted a waiver of a break in service of more than four years and were approved for conversion to the AO rating under the PRISE III Program. The enlistment documents show that you only reported your prior active service but did not report your enlistment in the Naval Reserve.

On 8 June 1999, the commanding officer of the reserve unit notified the Chief of Naval Personnel of your unsatisfactory participation in the Ready Reserve and advised that you would be separated within 10 days with a general discharge. You extended your enlistment in the Navy for an additional period of four months on 6 July 1999.

A special Evaluation Report and Counseling Record submitted on 29 February 2000 noted that your rate was changed to AOAN (E-3) after passing an AO3 examination, but you were not advanced. On 30 March 2000, a special evaluation was submitted to withdraw the command's recommendation for your advancement, which stated there would be "significant problems" if you were promoted. A marginal mark of 2.0 ("progressing") was assigned in the trait of military bearing/character. You were marked 3.0 ("meets standards") in all other categories. The reporting senior noted that you had failed to pay government credit card bills in a timely manner and your inability to adhere to Navy core values had made you an administrative burden to the command.

The evaluation for the period ending 15 July 2000 showed you were now promotable and meeting standards in all categories. However, on 20 October 2000, another special evaluation again removed the command's recommendation for your advancement, marked you as having "significant problems" and lowered the mark in "military bearing/ character" to 2.0. The reporting senior stated this mark was due to your making a false statement to a first class petty officer, for which you received extra military instruction. The evaluation submitted incident to your discharge continued to mark you 2.0 in "military bearing/character", but recommended you for retention. You were honorably discharged on 13 April 2001 as an AOAN, and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals who do not meet the professional growth criteria at the time of discharge. For the first reenlistment, an individual must be serving as a petty officer or serving in pay grade E-3 having passed an examination for advancement to pay grade E-4. Therefore, you met the criteria for reenlistment when you were first separated. However, at the time you were discharged from your second enlistment, you had not advanced

beyond E-3 and were not recommended for advancement. Since you were not an E-4 at the time of discharge, you did not meet the professional growth criteria for reenlistment. The Board found it disturbing that you made no mention of your Naval Reserve service at the time of your reenlistment. Whether you would have been reenlisted had this service been disclosed is unknown. Your contention that you were experiencing serious marital problems does not provide a valid basis for changing a reenlistment code. Although you were recommended for reenlistment in the last evaluation, two prior evaluations within the last 12 months of service indicated significant problems and withdrew the command's recommendation for advancement. Given your documented problems in performance and conduct, and since you had not advanced to pay grade E-4 by the time of your discharge, the Board concluded that the reenlistment code was proper 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