



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 1771-98

28 June 1999

MR [REDACTED]

[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 Naval Records, sitting in executive session, considered your application on 23 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 29 September 1987 at age 24. Your record reflects that you received four nonjudicial punishments. The offenses included unauthorized absences totalling at least two days, disorderly conduct, fighting, failure to obey a lawful order on two occasions, disrespect, possession of a controlled substance, drunkenness, and drunk and disorderly conduct.

While the discharge processing documents are not available, it appears that the commanding officer then recommended that you be separated with a general discharge by reason of misconduct due to commission of a serious offense. After review by the discharge authority, the recommendation was approved. Your DD Form 214 clearly shows that you were separated on 14 February 1990 with a general discharge by reason of misconduct due to commission of a serious offense.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity

and the contention that you were innocent of the drug charge. However, the Board concluded that these factors were not sufficient to warrant upgrading your discharge. In this regard, there is no evidence in the record to support your contention of innocence, and you submitted no such evidence. Therefore, the Board concluded that no change to the discharge is warranted.

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