



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

ELP
Docket No. 198-99
28 May 1999

[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 Naval Records, sitting in executive session, considered your application on 26 May 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 26 August 1991 for eight years at age 20. You were ordered to active duty for a period of two years on 4 December 1991. The record reflects that you were advanced to SN (E-3) and served without incident until 14 January 1993 when you received nonjudicial punishment (NJP) for assault. Punishment imposed consisted of a forfeiture of \$475 and 45 days of restriction and extra duty. You received a second NJP on 25 February 1993. However, the facts and circumstances of that NJP are not on file in the record. Incident to your release from active duty, you were not recommended for reenlistment. You were released from active duty under honorable conditions on 3 December 1993 and assigned an RE-4 reenlistment code.

Character of service is based, in part, on personal behavior and overall traits averages which are computed from marks assigned during periodic evaluations. Your final personal behavior and overall traits averages were 2.86 and 3.43, respectively. A

minimum average mark of 3.0 in personal behavior is required for a fully honorable characterization of service.

Regulations require the assignment of an RE-4 reenlistment code to individuals in pay grades E-4 and below who have an average of less than 3.0 in any trait during the current enlistment and who are not recommended for reenlistment.

In its review of your application the Board conducted a careful search of your record for any mitigating factors which might warrant a recharacterization of your service and change in your reenlistment code. However, no justification for such a change could be found. The Board noted your contentions to the effect that the reenlistment code is unjust for a single disciplinary incident in 1993, that you served your punishment, and finished your term of active duty with 3.6 evaluations. The Board concluded that your contentions were insufficient to warrant recharacterization of your separation given the record of two NJPs and your failure to achieve the required average in personal behavior. The criteria for a fully honorable characterization of service was established at a level which may be attained by all individuals. Your contention of a single disciplinary incident is not supported by the evidence of record. The Board concluded that two NJPs within the last year of service provided sufficient justification to warrant a non-recommendation for retention. Since you were treated no differently than others separated under similar circumstances, the Board could find no error or injustice in your reenlistment. The Board concluded that the characterization of service and reenlistment code were 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