



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 7185-99

8 February 2000

[REDACTED]

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 8 February 2000. 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 9 September 1992 for four years at age 18. Subsequently, you extended that enlistment for 10 months. The record shows that you received nonjudicial punishment on 15 January 1993 and 22 November 1996. Your offenses were underage drinking and an unauthorized absence of about 15 minutes. In addition, on 29 October 1996 you were counseled after consuming alcohol while in a managed liberty status and injuring yourself. You were warned at that time that further misconduct could lead to processing for an administrative discharge.

Following the 26 November 1996 nonjudicial punishment you were processed for a general discharge due to a pattern of misconduct. In connection with this processing, you elected to waive your procedural rights. Subsequently, the commanding officer directed a general discharge. In the performance evaluation for the period 16 June 1995 to 27 November 1996 you were not recommended for advancement or retention in the Navy. The evaluation comments state that you had repeated liberty incidents. The general discharge was issued on 27 November 1996.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your periods of good service and the minor nature of the offenses for which you received nonjudicial punishment. You contend that there was no counseling or warning entry in the record and a single nonjudicial punishment for a 15 minute unauthorized absence did not support discharge due to a pattern of misconduct. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge or to change the reason for your discharge given your record of two nonjudicial punishments. In addition, the counseling entry and performance evaluation show that you had continuing problems while in a liberty status. The Board concluded that a record of two nonjudicial punishments and the overall record were sufficient to support a general discharge due to a pattern of misconduct.

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 discharged for that reason, the Board could not find an error or injustice in the assignment of the RE-4 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