



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 4035-99

24 September 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 22 September 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 Navy on 31 July 1974 for three years at age 17. The record reflects that you were advanced to SA (E-2) and served for seven months without incident. However, during the two month period from February to March 1975 you received two nonjudicial punishments (NJP) for two instances of dereliction of duty, failure to obey a lawful order and a uniform violation.

On 27 March 1975 you were notified that discharge was being considered by reason of being a burden to the command and not being petty officer material. You were advised of your procedural rights and declined to submit a statement in your own behalf. On 7 April 1975 you received a third NJP for three instances of absence from your appointed place of duty, three instances of failure to obey a lawful order, and breaking restriction.

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

On 8 April 1975 the commanding officer (CO) advised the Chief of Naval Personnel that you had become a burden to the command due to your substandard performance or inability to adapt to the military service. On 9 April 1975 you received a general discharge by reason of convenience of the government due to "Burden to Command Due to Substandard Performance or Inability to Adapt to Military Service." At that time, you were assigned an RE-4 reenlistment code.

Regulations provided that individuals discharged by reason of convenience of the government would receive the type of discharge warranted by the service record. Character of service is based, in part, on military behavior and overall traits averages which are computed from marks assigned during periodic evaluations. Your military behavior and overall trait averages were 1.0 and 1.55, respectively. The minimum average marks required for a fully honorable characterization at the time your discharge were 3.0 in military behavior and 2.7 in overall traits. Regulations also required the assignment of an RE-4 reenlistment code to individuals discharged by reason of burden to the command due to substandard performance or inability to adapt to military service.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 24 years since you were discharged. The Board noted your contentions that you were told that after a short period of time, your discharge would be upgraded and that a reenlistment code was not needed. You assert that your discharge has adversely affected your employment opportunities. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs and failure to achieve the required averages in military behavior and overall traits. Your contentions are neither supported by the evidence of record nor by any evidence submitted in support of your application. A reenlistment code is required and there are no automatic provisions for upgrading a discharge. Your administrative discharge was accomplished in compliance with applicable regulations. There is no indication of procedural errors which would have jeopardized your rights. The Board concluded that the discharge 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