



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

ELP
Docket No. 968-01
14 June 2001



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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 12 June 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.

The Board found that you reenlisted in the Navy on 14 June 1983 for six years as an SH3 (E-4). At the time of your reenlistment, you had completed more than four years of prior active service.

On 14 June 1989 you extended your enlistment for an additional month. On 16 June 1989, the Commander, Naval Military Personnel Command authorized continuation beyond 10 years of service until April 1991. You then extended your enlistment for an additional period of 21 months on 13 July 1989.

The record further reflects that you served without incident until 26 January 1991 when you received nonjudicial punishment (NJP) for assault, disorderly conduct, and drunkenness. Punishment consisted of forfeitures of \$200 per month for two months and 45 days of restriction and extra duty. On 31 March 1991 you were extended for an additional period of four months to await examination results. However, you received a second NJP on

5 April 1991 for use of provoking words and gestures. Punishment consisted of a reduction in rate to SHSN (E-3) and 15 days of restriction and extra duty.

You were honorably discharged on 26 April 1991 and assigned an RE-4 reenlistment code.

The high year tenure limits for individuals serving in pay grade E-3 is eight years and 10 years for pay grade E-4. Regulations provide that continuation on active duty beyond those limits is not authorized without a waiver from the Commander, Naval Military Personnel Command. The Board noted that you had been granted a waiver to go beyond 10 years of active service while serving in pay grade E-4. Continuation beyond April 1991 was not authorized unless you were advanced to pay grade E-5. However, you were reduced in rate during the same month of your discharge. Regulations required the assignment of an RE-4 reenlistment code since you were beyond the HYT limits for both pay grades E-3 and E-4. The Board considered your contention to the effect that you have been unable to obtain gainful employment because of your assigned reenlistment code. It appeared to the Board that you were also contending that the NJP which resulted in your reduction in rate was due to a racial slur made against you by another crewmember. Unfortunately the NJP in question occurred more than 10 years ago and the evidence that was considered no longer exists. Absent such evidence, a presumption exists that there was no abuse of discretion when NJP was imposed on 5 April 1991. The fact that you have been unable find a decent job does not provide a valid basis for changing a correctly assigned 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