



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

ELP
Docket No. 8338-01
11 April 2002

[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 Navy Records, sitting in executive session, considered your application on 10 April 2002. 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 23 December 1997 for four years at age 18. The record reflects that you were formally counseled on 4 March 1998 for failing battle stations for the second time. You were warned that further failure could result in administrative separation. On 12 March 1998 a recruit evaluation report stated that you were a good recruit who always exerted effort, but you were not physically fit. It was recommended that you be left in the physical fitness training unit so you could to build up your endurance for a third attempt at battle stations.

A recruit performance record entry reflects that on 13 March 1998, you failed battle stations for the third time. At that time, you complained of hip pain and were taken to the hospital for examination. The same entry states that it was later reported by fellow recruits that you "were the recruit who snuck back into ranks after failing to run around the track." The

chain of command recommended separation.

On 30 March 1998 you were notified that administrative separation was being initiated by reason of entry level performance and conduct due to an inability or lack of effort to complete battle stations. You were advised of your procedural rights, declined to consult with legal counsel or submit a statement in your own behalf, and waived the right to have the your case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed an uncharacterized entry level separation by reason of entry level performance and conduct. You were so discharged on 6 April 1998 and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals separated for entry level performance and conduct. Your contention that the reason for discharge was the hip injury is neither supported by the evidence of record nor by any evidence submitted in support of your application. On the contrary, you were separated because you could not complete battle stations, due either to your lack of physical fitness or unwillingness to continue to put forth the necessary effort. Since you were treated no differently than others separated under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. The fact that you desire to reenlist does not provide a valid reason for change 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