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

TRG
Docket No: 2183-02
20 November 2002

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 20 November 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.

You enlisted in the Navy on 11 June 1987 for four years. You then served without incident for over three years. During this initial period of active duty, you were advanced to petty officer third class (BM3; E-4). On 25 July 1990 you were counseled concerning failure to pay debts, passing bad checks and unauthorized absences. On 15 April 1991 you received nonjudicial punishment for an unspecified offense and were reduced in rate from BM3 to BMSN (E-3). A special court-martial convened on 3 May 1991 and convicted you of breaking restriction and the use of a false or unauthorized pass. The court sentenced you to forfeitures of pay, 20 days of confinement, and a reduction in rate from BMSN (E-3) to BMSA (E-2). You were released from active duty on 10 June 1991 with your service characterized as being under honorable conditions. At that time, you acknowledged the assignment of an RE-4 reenlistment code due to misconduct and failure to meet professional growth criteria.

In 1994, your service was recharacterized to honorable by action of this Board. However, your request for a change in the reenlistment code was denied based on your record of misconduct and because you were serving in pay grade E-2 after four years of

active service. Your record has been corrected to show an honorable characterization of service.

You are now requesting that the record be corrected to show that you were not reduced in rate to pay grade E-2 one of the reasons for the assignment of the RE-4 reenlistment code. You desire a change in the reenlistment code so that you can reenter the Navy.

The Board noted that a reduction in rate is authorized punishment by a nonjudicial punishment and a special court-martial. It is clear that you committed offenses for which a reduction in rate is authorized. Additionally, you have not submitted any evidence showing that there was an abuse of discretion in the decision to reduce you in rate on two occasions. The Board concluded that the reductions in rate were proper and no change is warranted.

Additionally, the Board believes that two disciplinary actions in about two weeks, the second of which occurred only about 38 days prior to your discharge, were sufficient to support the assignment of the RE-4 reenlistment code even if you were not serving in pay grade E-2 when separated.

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

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