



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

ELP  
Docket No. 5980-00  
26 February 2001

[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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 22 February 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 enlisted in the Navy on 17 September 1991 for four years at age 17. The record reflects that you were advanced to OASN (E-3) and served without incident until 13 January 1994 when you received nonjudicial punishment (NJP) for a violation of Article 134 of the Uniform Code of Military Justice, specifically, "false pretenses." Punishment imposed consisted of a suspended reduction in rate to OASA (E-2), a forfeiture of \$466, and 30 days of restriction and extra duty. Further facts and circumstances surrounding this NJP are not on file in the record. However, you were subsequently advanced to OS3 (E-4).

On 7 March 1995 you were convicted by special court-martial of carnal knowledge. You were sentenced to confinement at hard labor for three months, forfeitures of \$500 per month for three months, and reduction in rate to OASN (E-3). You were released from the brig and restored to full duty on 15 April 1995.

On 13 November 1995 you were honorably released from active duty, transferred to the Naval Reserve, and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals who have a special court-martial conviction within the year preceding the expiration of enlistment. The Board noted your contention that the charge of rape was dropped and you were returned to full duty. While a charge of rape may have been dropped, the record indicates that you were convicted of a lesser included charge of carnal knowledge. The Board concluded that the reenlistment code was 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 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