



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

TRG
Docket No: 6328-00
29 March 2001

Dear [REDACTED]

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 27 March 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 21 June 1991. On 8 August 1991 you received nonjudicial punishment (NJP) for reckless or drunken driving. On 8 February 1993 you received nonjudicial punishment for an unspecified period of unauthorized absence of probably less than one day.

The record shows you reported to the Navy Radio Transmitting Facility, Totsuka, Japan on 20 July 1995. On 9 December 1997 your driving privileges were restricted after it was discovered that you had not maintained auto insurance. On 5 March 1998 you received NJP for another short period of unauthorized absence. The punishment was a suspended reduction in rate from ET2 (E-5) to ET3 (E-4). About eight days later, you were an unauthorized absentee for about 90 minutes and the suspension was vacated. This resulted in your reduction to ET3.

In the performance evaluation for the period 16 March 1997 to 13 March 1998 you were assigned adverse or marginal marks in several categories, and were not recommended for advancement or retention in the Navy. The evaluation comments state, in part, as follows:

.... Unable to meet military responsibilities. Formally counseled three times for failure to arrive at work on time. Lateness ranging from 15 minutes to 1 hour 45 minutes. ... Creates conflict in the division. Unwilling to follow directions. Constantly challenges authority and has been disrespectful to LPO on several occasions. ... Set a poor example for others in the division. As (a) senior technician, his argumentative attitude, and disrespect has a negative impact on the junior technicians and the division as a whole. (He) is a very intelligent individual but has made (a) conscious decision to disobey regulations, be insubordinate and disruptive.

On 21 April 1998 you received NJP for two additional short periods of unauthorized absence and were reduced in rate to ETSN (E-3).

Based on the foregoing record, you were processed for an administrative discharge due to a pattern of misconduct. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. Subsequently, the commanding officer directed a general discharge. He stated that although your enlistment would expire on 20 August 1998, you had placed an extreme burden on the command and the Family Advocacy Program due to your nonconformance with minimum Navy standards. You were discharged on 4 June 1998. The DD Form 214 issued at that time shows the characterization of service was honorable. At that time, you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

In your application you are appealing the reductions in rate from ET2 to ETSN. You contend that the NJP's were imposed because the command was "out to get you" because you made a hot line complaint against your superiors.

After reviewing the performance evaluation for the period ending 13 March 1998, the Board found that you had a problem getting to work on time. It appears that you were put on notice that this behavior would no longer be tolerated when you received NJP on 5 March 1998 and were punished with a suspended reduction in rate. Subsequently, you committed three other short periods of unauthorized absence which resulted in a reduction to ETSN. There is no evidence in the record, and you have submitted none, to show that you made a hot line complaint or that the reduction in rate occurred because of retaliation. The Board concluded that the commanding officer did not abuse his discretion when he imposed NJP for the short periods of unauthorized absence. In addition, it is clear that the reductions in rate were caused by your own actions because you did not conform to the requirement

to be at work on time.

The Board noted that the discharge processing was conducted in accordance with regulations and you did not contest the discharge by requesting an administrative discharge board. The Board concluded that you were fortunate to have an honorable discharge since a general discharge was directed.

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