



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

CRS  
Docket No: 9325-02  
24 January 2003

[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 Naval Records, sitting in executive session, considered your application on 22 January 2003. 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 February 1999. The record reflects that on 6 December 1999 you were convicted by a summary court-martial (SCM) of unauthorized absences on six occasions, missing ship's movement on two occasions, and use of marijuana. The court sentenced you to confinement for 30 days, forfeitures of pay, and a reduction in rate. The record appears to indicate that you were confined during the period of 6 to 30 December 1999.

On 15 December 1999 the commanding officer recommended that you be separated with an other than honorable discharge by reason of misconduct due to commission of a serious offense and drug abuse. When informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and on 6 January 2000 you received an other than honorable discharge by reason of misconduct due to commission of a serious offense. At that time, you were assigned a reenlistment code of RE-4.

Applicable regulations require the assignment of an RE-4 reenlistment code when an individual is discharged due to misconduct. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of your reenlistment code.

Concerning the contention that the period 6 to 30 December 1999 was incorrectly counted as an unauthorized absence, the Board could not find any evidence to support this assertion. On your DD Form 214 the period is listed as time lost. Confinement served pursuant to the sentence of a court-martial is time lost. Therefore it appears that although you were not an unauthorized absentee during this period, it was proper to charge you with time lost since you were serving the confinement adjudged at the SCM. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider whether your characterization of service or reason for separation should be changed, since you did not ask for such consideration and you have not exhausted your administrative remedy by applying to the Naval Discharge Review Board (NDRB). You may apply to NDRB by submitting the attached DD Form 293.

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

Enclosure