



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

CRS
Docket No: 4580-03
20 June 2003

[REDACTED]

[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 18 June 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 Marine Corps on 23 April 1996. The record reflects that you received nonjudicial punishment and were convicted by a summary court-martial. The offenses included an unauthorized absence of two days, absence from your appointed place of duty on two occasions, willful disobedience of a lawful order on two occasions, making a false official statement, and failing to pay a just debt.

Although the request for discharge is not in your record, it appears that you subsequently requested an other than honorable discharge in order to avoid trial by court-martial. The Board presumed that prior to submitting this request, and in accordance with applicable directives, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. It appears that your request was granted and, as a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. The record clearly

shows that on 5 January 1998 you received an other than honorable discharge for the good of the service in order to escape trial. 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 in lieu of court-martial. 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. 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