



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

CRS
Docket No: 5312-99
28 September 1999

[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 of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 September 1999. 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 Naval Reserve on 30 January 1995 at age 17. You reported to active duty on 13 July 1995. Your record reflects that on 6 October 1995 you were convicted by a summary court-martial of gambling and assault consummated by battery. Thereafter, on 26 October 1995 you received an entry level separation by reason of entry level performance and conduct. At that time you were assigned a reenlistment code of RE-4.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the contention that you were told the separation would be automatically upgraded after six months. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge given your disciplinary action. Also, an entry level separation is normally assigned to individuals separated within the first 180 days of active duty. Therefore, the entry level separation was appropriate in your case since you served on active duty for less than four months.

Additionally, no law or regulation provides for a change in a discharge based solely on the passage of time.

The Board noted that an RE-4 reenlistment code is authorized by regulatory guidance and must be assigned to individuals who are separated due to entry level performance and conduct. It means that you may not reenlist in the Navy without prior approval of the Commander, Navy Personnel Command. The Board thus concluded that there is no error or injustice in your reenlistment code.

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