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

TRG
Docket No: 2643-98
19 August 1999

[redacted]

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 17 August 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 reported to SEAL TEAM FIVE on 15 September 1995 and were subsequently advanced to ET1 (E-6). In the performance evaluation for the period 16 November to 15 September 1997 you were assigned an adverse mark of 1.0 in the category of Military Bearing/Character, and were not recommended for advancement or retention. The evaluation comments state, in part, as follows:

> Failed to live up to the Navy's Core Value of Commitment. Put self above team and failed to understand team goals. Less than two months before deploying ... chose to violate his page 13 agreement to extend his EAOS by six months which would allow him to complete the deployment. He then requested to drop his SEAL NEC.

In your rebuttal to the evaluation and in your application to the Board, you stated that you were not compatible with the special warfare community and decided to drop your SEAL designation because you felt that you could not give the 100% effort required, and you did not want to cause an adverse impact on your team. You contend, in effect, that the command refused to give

your concerns any consideration and demanded that you complete the deployment you had agreed to.

You were released from active duty on 15 September 1997 after completing over seven years of active service. At that time you were assigned an RE-4 reenlistment code.

The Board did not have access to the Administrative Remarks (Page 13) entry referred to in the evaluation. However, it is clear that such an agreement existed. The Board believed that refusing to extend your enlistment following a lengthy period of training and shortly before a deployment was certainly sufficient to support the adverse performance evaluation. The Board concluded that this evaluation was sufficient to support the assignment of the RE-4 reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Any adverse reenlistment code may be waived and reenlistment or reserve affiliation authorized in the appropriate circumstances. However, the granting of waivers is a matter solely within the discretion of recruiting authorities.

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