



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 2974-99

24 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 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 21 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 Navy on 30 July 1998 at age 18. On 29 January 1999 you were notified of separation processing due to your fraudulent entry into the Navy. On 2 February 1999 the Commanding Officer directed an entry level separation and stated, in part, as follows:

... failed to disclose an extensive history of drug abuse that included LSD, cocaine, methamphetamine, and nitrous oxide and a history of alcohol dependence. He also failed to disclose a period of hospitalization for psychiatric reasons prior to enlistment.

You were separated due to fraudulent enlistment with an entry level separation on 2 February 1999. At that time, you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

You contend in your application that you told the recruiter of

your drug abuse and counseling, and that you were told to answer "no" to the pertinent questions and to keep silent while in recruit training. Your parents confirm your version of events. You desire a change to the reenlistment code so that you can reenlist with full disclosure of your drug and alcohol abuse.

Regulations require the assignment of an RE-4 reenlistment code when an individual is separated because of a fraudulent enlistment. Therefore, you have been treated no differently than others discharged for that reason. Additionally, even if you did fully disclose your drug use to the recruiter, the drug and alcohol abuse described in the commanding officer's direction for separation is a bar to enlistment. Since your enlistment was erroneous, you would have been processed for separation due to erroneous entry. An Re-4 reenlistment code is required when an individual is separated by reason of erroneous entry due to preservice drug abuse. Given the circumstances the Board concluded that the reenlistment code was properly assigned.

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

In reaching its decision in your case it was noticed that an error occurred in your case. Regulations state that before an individual can be separated with an uncharacterized entry level separation the separation processing must begin within 180 days. This is computed by counting the actual number of days and not by using 30 day months as in your case. Therefore, if you desire the issuance of a discharge rather than the entry level separation you should submit the enclosed application to the Naval Discharge Review Board. This minor change would not result in any entitlement to benefits or a change in the reenlistment code.

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