



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 8374-98

16 April 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 14 April 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.

In the Report of Medical History you filled out upon enlisting in the Delayed Entry Program in September 1996 you stated that you had never been treated for asthma. You enlisted in the Marine Corps on 1 July 1997 for four years.

On 4 July 1997, you were referred to the medical clinic with complaints of asthma. The following day you were asked if you had ever been told that you had asthma. You said you were so advised approximately three years ago, and had been treated with medication. A pulmonary function test on 8 July 1997 confirmed the diagnosis of asthma.

On 10 July 1997, you were notified that you were being considered for an entry level separation by reason of defective enlistment and induction due to erroneous enlistment as evidenced by asthma. You were advised of your procedural rights and waived those

rights. On 16 July 1997, you received an uncharacterized entry level separation by reason of erroneous entry and were assigned an RE-4 reenlistment code.

Regulations authorize the assignment of an RE-4 reenlistment code to individuals discharged by reason of erroneous enlistment. The Board noted that had you disclosed that you had been treated for asthma prior to enlistment, it is unlikely that you would have been enlisted. Such action certainly would not have occurred without a review of the civilian medical records which documented your treatment. The Board specifically noted the doctor's statement submitted in support of your application to the effect that you do not have asthma. However, the Board concluded that this does not outweigh your admission in recruit training that you suffered from asthma and received treatment for it. The Board notes that you could have been discharged for a fraudulent enlistment due to your failure to disclose this information. The Board concluded that the reenlistment code was proper and no change is warranted. 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