



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

ELP
Docket No. 954-01
7 June 2001

[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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 6 June 2001. 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 27 October 1998 for four years at age 18. The record reflects that on 3 November 1998 a Navy drug laboratory reported that you had tested positive for marijuana on your accession urinalysis.

On 5 November 1998 you were notified that administrative separation action was being initiated by reason of a confirmed positive entrance urinalysis for marijuana. You were advised of your procedural rights, declined to consult with legal counsel or submit a statement in your own behalf, and waived the right to have your case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed an entry level separation by reason of erroneous entry due to drug abuse. The discharge authority noted that you did not disclose your pre-service marijuana use during the "moment of truth" interview. You received an uncharacterized entry level separation on 12 November 1998 and were assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to an individual separated by reason of erroneous entry due to drug abuse. Your contention that you told your recruiter that you had used marijuana just prior to going to recruit training and that he told you to keep it to yourself, is neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board could find no error or injustice in your assigned reenlistment code since you were treated no differently than others separated under similar circumstances. The Board thus 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