



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2298-00

5 September 2000

[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 30 August 2000. 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 25 August 1999 for years at age 17. At that time, you extended your enlistment for an additional period of 24 months in exchange for training in the advanced electronics field and accelerated advancement to pay grade E-4.

On 3 September 1999 a Navy drug laboratory reported that the urine sample you submitted on 26 August 1999 had tested positive for marijuana. Thereafter, you were notified that separation processing was being initiated by reason of defective enlistment and induction due to erroneous enlistment as evidenced by a positive entrance urinalysis for marijuana. You were advised of your procedural rights, declined to consult with legal counsel, and waived the right to have your case reviewed by the general court-martial convening authority. On 10 September 1999 the discharge authority directed an uncharacterized entry level separation by reason of erroneous enlistment due to drug abuse. You were so discharged on 15 September 1999 and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment to individuals who are separated by reason of erroneous enlistment due to drug abuse. The Board noted your contention that you passed your urinalysis at the examining station and stayed clean through your departure, but failed the urinalysis at recruit training. The Board was not persuaded that was so and noted that marijuana stays in an individual's system longer than other illegal substances. Since you were treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in your assigned 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