



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

ELP
Docket No. 3854-01
4 October 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 of the Board for Correction of Navy Records, sitting in executive session, considered your application on 3 October 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.

You enlisted in the Navy on 17 May 1999 for four years. At that time, you extended your enlistment for an additional period of 12 months in exchange for the training in the Construction Mechanic (CM) Guarantee Program.

The record reflects that on 7 January 2000, while at CM "A" School, you made a statement to the effect that after failing an entrance examination for enlistment, you paid another individual \$100 to retake the test for you. You claimed that you were unable to enter recruit training until May 1999 because up until then, you were still learning English. You noted that it took you five months instead of the normal nine weeks to complete recruiting training because of a problem reading and taking tests.

On 20 January 2000 you were notified that you were being processed for discharge by reason of fraudulent entry. You were advised of your procedural rights and that the least favorable characterization of service would be a general discharge. You declined to consult with legal counsel or submit a statement in

your own behalf, and waived the right to have the case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed a general discharge by reason of fraudulent entry. He stated that the Navy had invested considerable time and resources based on the belief that your test scores were valid. However, your performance to date clearly showed your inability to comprehend English at a level necessary to succeed, and you were dropped from CM "A" school. You received a general discharge on 4 February 2000 and were assigned an RE-4 reenlistment code.

In its review of your application the Board conducted a careful search of your record for any mitigating factors which might warrant a recharacterization of your general discharge. However, no justification for such a change could be found. The Board noted the letter you wrote to the governor of your state in which you claim that you were unable to complete training because of serious family problems at home. The Board has no way of determining what your true statement is, the one you are made to the governor of your state or the one you made while at the service school. If that statement was untrue, then you obtained your discharge through fraud. The Board is not sympathetic to individuals who obtain separation through fraudulent means. The Board concluded that the obtaining an enlistment or discharge by fraudulent means does not constitute fully honorable service. Regulations require the assignment of an RE-4 reenlistment code to individuals separated by reason of fraudulent entry. The Board thus concluded that the discharge and reenlistment code were proper and no changes are 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