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

TRG
Docket No: 84-02
13 March 2002

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 12 March 2002. 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 16 November 1986 at age 18. You successfully completed initial training and were transferred for sea duty. On 24 September 1988 you were diagnosed with a personality disorder and recommended for administrative discharge. The psychologist stated in his evaluation, in part, as follows:

> ... (His) personality disorder is so severe as to render him incapable of serving adequately in the Navy, i.e. he states that he will attempt suicide rather than go on board his ship and he has a history of impulsive antisocial behavior, including his latest suicidal gesture. ... I view (him) as being self-destructive and a continuing danger to himself as long as the threat of having to board a ship for duty hangs over him.

Based on the diagnosed personality disorder, you were processed for an administrative discharge. In connection with this processing, you stated "I do not object to this discharge." Subsequently, the discharge authority directed an honorable discharge and you were so discharged on 21 November 1988.

You state in your application, in effect, that you were very immature, and were upset about not getting the training you wanted and your marital problems. Subsequently, you lied about wanting to harm yourself in order to gain discharge. You claim to have matured and have submitted character references showing that you are a solid citizen and a good employee. You desire a change in the reason for your discharge and reenlistment code so that you can enlist in the Arizona Air National Guard.

Regulations allow for the assignment of an RE-4 reenlistment code when an individual is discharged based on a diagnosed personality disorder and such a code is normally assigned when it is determined that an individual is at risk to harm himself or others. However, you state that you lied to gain discharge. It is well settled in the law that an individual who perpetrates a fraud in order to gain discharge should not benefit from that fraud when it is discovered. The Board concluded that if your statements to the psychologist were true you were properly discharged by reason of the diagnosed personality disorder with the RE-4 reenlistment code. The Board further concluded that if you committed a fraud in order to be discharged that a change in the reason for your discharge and reenlistment code is not 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