



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

WMP
Docket No: 0160-02
9 May 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 8 May 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 15 August 1997 at age 18 for four years, with an agreement to remain on active duty for an additional 24 months for training in the nuclear field. Your record reflects that you served without incident until your separation on 22 April 1998.

Although the documents concerning your separation processing are not available in your records, it is clear that you were separated after you were offered and refused alcohol rehabilitation treatment, as indicated in your statements. The record clearly shows that on 22 April 1998 you received an honorable discharge due to alcohol rehabilitation failure, and were assigned an RE-4 reenlistment code.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity at the time of your service and your current statement concerning your desires at the time of your separation. However, your statement indicates that, you provided competent medical authorities information concerning your alcohol abuse and then refused treatment. Whether these facts were true at the time or a fabrication, the fact remains that you refused treatment, and because of this refusal you became eligible for separation by reason of alcohol rehabilitation failure, as approved by your commanding officer on 31 March 1998. Assignment of a RE-4 reenlistment code is required by regulation when an individual is discharged for alcohol rehabilitation failure. Further, if you lied about your alcohol use in order to be discharged, it is well settled in the law that an individual who procures a discharge by fraud should not benefit when the fraud is discover. 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