



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

TRG
Docket No: 3288-01
12 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 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 10 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 29 September 1999 at age 22. On 25 October 1999 you were diagnosed with an antisocial personality disorder. The psychologist believed that the diagnosis made you unsuitable for continued service and that there was a "further risk" if you were retained in the Navy.

Based on the foregoing diagnosis, you were processed for an administrative separation. In connection with this processing, you elected to waive your procedural rights. On 1 November 1999 the separation authority directed an entry level separation by reason of erroneous enlistment. You were so separated on 4 November 1999.

You state in your application that you had personal problems and lied to the psychologist about your preservice theft of automobiles, participation in fights and use of ritalin in order to be separated. You claim to have resolved your problems and desire to reenlist in the service.

It is well settled in the law that an individual who perpetrates a fraud in order to gain discharged should not gain from the

fraud when it is discovered. In addition, the Board could not tell if you were lying then or are lying now. Regulations allow for the assignment of an RE-4 reenlistment code when an individual is separated by reason of an erroneous enlistment and such a code is normally assigned when an individual is considered to be at risk to harm themselves or others. Since you have been treated no differently than others separated for that reason, the Board could not find an error or injustice in the assignment of the RE-4 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