



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

JRE
Docket No: 6178-01
5 September 2001



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 23 August 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. The Board noted that separation action was initiated in your case on 1 February 2001 based on your inability to train because of a recurrent pulmonary condition. In a letter dated 9 March 2001, the Commanding Officer, Naval Hospital, Camp Lejeune, advised your commanding officer that you had refused further medical treatment for your recurrent condition, and as a result, would be unable to complete the rigors of School of Infantry training. After being advised of your rights in connection with your proposed discharge, you declined to consult with counsel or submit a statement in rebuttal or otherwise object to the proposed action. The recommendation for discharge was approved on 22 March 2001, and you were discharged with an entry level separation on 23 March 2001. You were assigned a reenlistment code of RE-4, because your commanding officer did not recommend you for reenlistment.

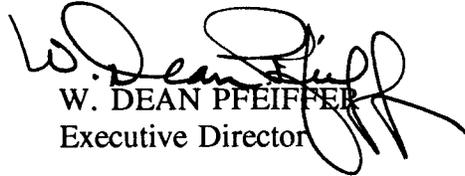
The Board carefully considered your contentions to the effect that your condition was less severe than diagnosed by Navy medical authorities, and that had you received proper medical testing, evaluation and care, you would have been able to complete training, but found those matters insufficient to demonstrate that material error or injustice occurred in your case. You were discharged because of your inability to complete training because of a pulmonary

condition, which would have occurred regardless of the diagnostic label applied to the condition. There is no indication in the available records that you received substandard medical care while on active duty. The fact that your condition cleared up following your discharge was not considered to have much significance, especially in view of your refusal of medical care prior to your discharge. The Board noted that it is the date discharge processing is initiated, rather than when the discharge is effected, which determines whether a separation will be characterized. As your discharge processing was initiated while you still in an entry level status, you received an uncharacterized, entry level separation, and there is no basis for awarding you an honorable discharge. The Board was not persuaded that it would be in the interest of justice to substitute its judgement for that of your former commanding officer by changing your reenlistment code.

In view of the foregoing, 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