



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

ELP
Docket No. 6065-00
9 February 2001



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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 9 February 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 found that you enlisted in the Navy on 5 January 2000 for four years as an SN (E-3). A security clearance application prepared prior to your enlistment shows that you answered "NO" to all questions relating to whether you had a police record for any felony or alcohol and drug offenses, and if there were any charges pending against you.

On 14 February 2000 you were notified that discharge was being considered by reason of defective enlistment and induction due to erroneous enlistment as evidenced by pre-service civil involvement. The record reflects that arrest warrants had been issued on 20 January 2000 requiring you to answer charges for obtaining money under false pretenses, valued at less than \$200; and forging a check in the amount of \$150. A hearing date was scheduled for both warrants on 23 February 2000. You were advised of your procedural rights. After consulting with legal counsel, you declined to submit a statement in own behalf and waived the right to have your case reviewed by the general court-

martial convening authority. Thereafter, the discharge authority directed an uncharacterized entry level separation by reason of erroneous enlistment. You were so discharged on 16 February 2000.

Regulations authorize the assignment of an RE-4 reenlistment code to an individual separated by reason of erroneous enlistment. The Board noted your contentions to the effect that you and your recruiter went to the "court-house to check for warrants." Both background and warrant checks came back negative. You claim that you were not convicted of the charges.

A Federal Bureau of Investigation (FBI) report obtained by the Board shows you were charged with obtaining money by false pretenses and two charges of forging/uttering. On 22 March 2000, you apparently appeared in court and pled guilty to the false pretense charge and the remaining charges were not prosecuted. Whether you received a sentence for the charge to which you pled guilty could not be determined from the report. In view of the FBI report, the Board believes you have been less than truthful in your application. You should contact the FBI in order to discover the procedures for correcting its records if the report is in error. The Board thus concluded that the assigned reenlistment code is proper and no change is 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