



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 5093-99

21 October 1999

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 of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 October 1999. 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 26 February 1999 for four years at age 18. The record reflects that on 4 March 1999 you were referred to the recruit evaluation unit for a psychiatric evaluation because you stated that half of your division was gay. The recruit evaluation stated that you had assaulted and battered a shipmate and been argumentative with your superiors. You expressed discomfort with anyone being close to you and said that you kept your hands behind your buttocks in the galley. You also reported past drug use. The mental status examination reflected below average intellectual functioning and evidence of a formal thought disorder or an organic brain syndrome. You were hyperactive with rambling conversation and poor attention span, and were diagnosed with attention deficit/hyperactivity disorder and an unspecified personality disorder.

On the same date as the psychiatric evaluation, a Navy drug laboratory reported that your accession urinalysis had tested positive for marijuana.

On 9 March 1999 you were notified that administrative separation was being considered by reason of convenience of the government due to a defective enlistment and induction due to erroneous enlistment as evidenced by the diagnoses of attention deficit/hyperactive disorder and personality disorder, and the positive accession urinalysis. You were advised of your rights. You declined to consult with counsel or submit a statement in your own behalf and waived the right to have your case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed an entry level separation by reason of erroneous enlistment and noted that you had not disclosed pre-service marijuana use during a "moment of truth" interview. On 15 March 1999 you received an uncharacterized entry level separation by reason of "erroneous enlistment-drug abuse" and were assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals separated by reason of erroneous enlistment due to drug abuse. Since you were treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. The fact that you no longer use drugs does not provide a valid basis for changing a correctly assigned reenlistment code. The Board concluded that the reenlistment code was 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