



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 222-99

15 October 1999

[REDACTED]

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 13 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 29 September 1998 at the age of 18. On that same day you submitted a urine sample as part of an accession urinalysis. On 1 October 1998 a message from a Navy drug laboratory reported that your urine sample had tested positive for marijuana.

Your record reflects that on 5 October 1998 you were notified of pending administrative separation action. After consulting with legal counsel you submitted a written statement in which you stated, in part, that the report of drug use was correct, however, you did not knowingly smoke marijuana because someone had laced your cigarettes with marijuana at a party you attended during the second weekend of September 1998. However, on 13 November 1998 the discharge authority directed you be issued an uncharacterized entry level separation by reason of erroneous entry due to duty abuse. On 18 November 1998 you were so separated and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you would like your reenlistment code changed so that you may reenlist. The Board also considered your numerous letters of recommendation and character reference. However, the Board concluded these factors were not sufficient to warrant a change in your reenlistment code given your drug related misconduct prior to your enlistment in the Navy. The Board concluded that the discharge authority did not act arbitrarily or capriciously in directing your separation, even considering the evidence you submitted. Further, the Board questioned whether the use of marijuana on the second weekend in September would cause a positive result on a urine sample submitted on 26 September 1998, more than two weeks later. Given all the circumstances of your case, the Board concluded your reenlistment code was proper as issued 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