



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

TRG
Docket No: 69-01
28 June 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 26 June 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 delayed entry program (DEP) of the Naval Reserve on 31 October 2000 and, on 21 November 2000, you enlisted in the Navy for four years. On 22 November 2000, during the moment of truth, you stated that you had used marijuana 13 times during the period from May 1995 to November 2000. However, you were retained in the Navy and warned that if any other undisclosed information came to light, you could be subjected to judicial or administrative proceedings.

On 30 November 2000, the Navy drug laboratory reported that your accession urinalysis had tested positive. Based on the positive urinalysis you were processed for an administrative separation by reason of erroneous enlistment due to drug abuse. In connection with this processing you elected to waive your procedural rights. On 7 December 2000, the separation authority directed separation and the assignment of an RE-3J reenlistment code. You received an entry level separation on 12 December 2000 and were assigned an RE-4 reenlistment code at that time.

Regulations allow for the assignment of an RE-3J reenlistment code when an individual in an entry level status tests positive

for marijuana use, served less than 30 days in the DEP, confessed to the use of marijuana during the moment of truth, and was processed for separation by reason of fraudulent enlistment. The Board was aware that an RE-3J reenlistment code is a bar to enlistment in the Navy. An RE-4 reenlistment code is required when an individual is separated by reason of erroneous enlistment due to drug abuse.

The Board noted your admission that you used marijuana during November 2000. However, there is no evidence to show whether you admitted using marijuana under conditions that would result in a positive urinalysis or that you admitted that you might test positive for marijuana. As indicated, you were ultimately separated because of erroneous enlistment due to drug abuse and not fraudulent enlistment. Accordingly, you do not meet the requirements for the assignment of an RE-3J reenlistment code. Since you have been treated no differently than others separated from recruit training by reason of erroneous enlistment due to drug use, 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