



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

ELP
Docket No. 3221-01
31 August 2001

[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 Navy Records, sitting in executive session, considered your application on 29 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.

You enlisted in the Navy on 23 June 1978 for three years at age 17. At the time of your enlistment, you enlisted in "OP" category of the Regular Navy Enlisted Occupational Special School Guarantee Program, which provided for training as a machinist mate, engineman, or boiler technician. You signed an Administrative Remarks (page 13) entry which stated as follows:

"I have not, in any way, been promised or guaranteed a specific school or course. No individual is authorized to make any promise or guarantee of specific assignment before my official assignment by the Chief of Naval Personnel. This assignment will be made during recruit training and will depend on my physical qualifications, security clearance eligibility, availability of school seat openings at the time of my assignment and the need of the Navy for certain skills..."

The record reflects that you completed recruit training and were assigned to BT "A" school. However, on 30 October 1978 you were reported as an unauthorized absentee (UA), and you remained absent until you surrendered to military authorities on 5 February 1979. On that day, you were dropped from school due to pending disciplinary action.

On 21 February 1979, charges for the foregoing 99 day period of UA were referred to a special court-martial. On 27 February 1979 you submitted a request for an other than honorable discharge for the good of the service to escape trial by court-martial for the foregoing period of UA. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 15 March 1979 the discharge authority approved the request and directed discharge under other than honorable conditions. You were so discharged on 30 March 1979.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and the fact that it has been more than 22 years since you were discharged. The Board also noted your contention that you were told by your recruiter that you could be an engineman, but you were actually assigned for training as a boiler technician. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given the fact that you accepted discharge rather than face trial by court-martial for a UA of more than three months. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. Additionally, your contention is not supported by the evidence of record. The fact that you received orders for training as a boiler technician and not an engineman did not justify a UA of more than three months. The Board thus concluded that your discharge 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