



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

ELP
Docket No. 4710-01
16 November 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 15 November 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 24 October 1973 for four years. The record reflects that on 21 February 1974, you were advised by a command investigator that you were suspected of fraudulent enlistment, and were advised of your rights. Thereafter, you voluntarily disclosed pre-service arrests for breaking and entering, being drunk, malicious damage to property, and shoplifting. A Defense Investigative Service report showed a conviction on 23 October 1973 for breaking and entering in the nighttime and larceny, for which you received two years of probation.

On 28 February 1974 you were notified that the command was considering administrative discharge under other than honorable conditions by reason of fraudulent enlistment due to failure to reveal the foregoing civil arrests. You were advised of your procedural rights and waived your right to be represented by legal counsel and present your case to a board of officers.

Thereafter, the commanding officer recommended discharge by reason of misconduct due to fraudulent enlistment. On 4 March 1974, the discharge authority directed a general discharge by reason of misconduct. You were so discharged on 6 March 1974.

In its review of your application the Board conduct a careful search of your records for any mitigating factors which might warrant recharacterization of your discharge. However, no justification for such a change could be found. Your contention that you were told not to mention your pre-service arrests is neither supported by the evidence of record nor by any corroborating evidence in support of your application. The Board believed that you were fortunate that the discharge authority directed a general discharge since some individuals who fraudulently enlist are discharged under other than honorable conditions. The Board concluded that the 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