



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

MEH:ddj
Docket No: 4839-01
25 September 2001



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 25 September 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. In addition, the Board considered the advisory opinion furnished by CNET memorandum 1533 OTE8 of 30 August 2001, a copy of which is attached.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. 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

Enclosure



DEPARTMENT OF THE NAVY

CHIEF OF NAVAL EDUCATION AND TRAINING

250 DALLAS ST

PENSACOLA FLORIDA 32508-5220

1533

OTE8

30 AUG 2001

From: Chief of Naval Education and Training
To: Department of the Navy, Board of Correction of
Naval Records

Subj: EX-MIDSHIPMAN [REDACTED]

Ref: (a) Your Memo of 27 Jul 01

1. In response to reference (a), a thorough review was made on Mr. [REDACTED]'s disenrollment case. During Mr. [REDACTED]'s precommissioning physical, he was seen by the Mental Health Unit, San Diego where he "mentioned" that he was there for "sleepwalking" and that he didn't know how long he had the problem. He was found not physically qualified due to the sleepwalking by Chief, Bureau of Medicine and Surgery, which was later reversed to a "waiver recommended for a Restricted Line designator" which was granted by CNET.

2. [REDACTED] refused to accept a restricted line designator, thus was recommended for disenrollment from the NROTC Program. Further, it was determined that he had never mentioned that he had a sleepwalking problem, even though he had the problem as early as 1991. He was granted a scholarship in 1995 and continued on that scholarship for three years before mentioning it to the Mental Health Unit as noted above. The Commanding Officer, NROTC Unit, feels that Mr. [REDACTED] was not honest, sincere, nor did he ever intend to be commissioned. He obtained the scholarship under fraudulent conditions and in addition continued to accept scholarship benefits under fraudulent conditions. Only when it was time for commissioning, did [REDACTED] mention his problem.

3. Because of the refusal to accept a commission in the Restricted Line and the fraudulent conditions under which Mr. [REDACTED] received his NROTC Scholarship, on September 21, the Secretary of the Navy ordered recoupment of all benefits in Mr. [REDACTED] case. There are no new facts revealed in this case that would warrant a reversal of the recoupment action.

[REDACTED]
By direction