



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

TRG
Docket No: 6736-01
4 October 2002

[REDACTED]

[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 1 October 2002. 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 Naval Reserve Delayed Entry Program (DEP) on 24 August 1988 at age 24. In connection with your enlistment in the DEP, you were honorably discharged from the Air Force Reserve (USAFR) on 23 October 1988. This action was required because the law prohibits an individual from being in two military components at the same time. Entered on the front page of the DEP enlistment contract was your agreement to enlist in the Regular Navy on 9 March 1999. Since you did not enlist, you were administratively separated from the Naval Reserve on 9 March 1989.

You contend in your application, in effect, that it was improper to enlist you in the DEP because you were a member of the Air Force Reserve and the DEP program is for new enlistees. You cite a Department of Defense Instruction that states that when there is an interservice transfer there should be no break in service. Since time in the DEP does not count for longevity purposes, you believe that there has been a break in your service. You also contend that the Navy did not issue you orders to report to active duty and the administrative separation for failing to report for active duty was erroneous.

You previously applied to the Air Force Board for Correction of Military Records (AFBCMR) contending that you were improperly discharged from the USAFR and requested credit for several years of paid drills. The AFBCMR stated, in part, as follows:

A review of the evidence reveals that the applicant voluntarily switched military services, ultimately enlisting in the United States Navy Delayed Enlistment Program. However, for some unknown reason, he failed to report for active duty after several attempts were made to contact him regarding his active duty commencement date. He alleges that he never received notice from the Navy to report to duty. However, we note that the notices were delivered to the address he acknowledges that he provided to the Navy recruiter. Notwithstanding this, we believe that the applicant had a responsibility to seek to determine his status with the Navy. Other than his own assertion, no evidence has been presented that he did so.

The AFBCMR concluded that your discharge from the USAFR was proper.

It is clear from the regulations that your discharge from the USAFR was required when you enlisted in the Naval Reserve. The record shows that you voluntarily enlisted in the DEP and agreed to enlist in the Regular Navy on or before 9 March 1989. When you did not enlist as you agreed, the only option left to the Navy was to separate you from the Naval Reserve. The Board noted the comments made by AFBCMR to the effect that the Navy attempted to resolve your status by sending information concerning your active duty to the address you provided. Further, the Board believed that since the date you were supposed to enlist in the Navy was entered on the enlistment contract, you should have contacted the recruiter prior to that date. The Board believed that that any problems concerning your military service were essentially of your own making when you did not comply with the terms of your contract. The Board concluded that the actions taken in your case were proper and a change in your record is not 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