



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

CRS  
Docket No: 8314-02  
30 December 2002

[REDACTED]

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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 Naval Records, sitting in executive session, considered your application on 11 December 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.

The Board found that you enlisted in the Navy on 21 June 2002. Subsequently, while in recruit training, you were diagnosed with spontaneous pneumothorax, a condition which, if known prior to your enlistment, would have prevented your entry into the Navy.

On 19 July 2002 administrative separation administrative was initiated by reason of erroneous enlistment due to the diagnosed spontaneous pneumothorax. At that time, you declined to submit a statement in response to the proposed separation action. On 22 July 2002 the discharge authority directed an entry level separation by reason of erroneous enlistment. On 26 July 2002 you were so separated with a reenlistment code of RE-3E.

In its review of your application the Board carefully weighed all potentially relevant factors, including the contention that you were improperly separated. However, the Board concluded that these factors were not sufficient to warrant an honorable discharge, a change in the reason for discharge, or a better reenlistment code.

An entry level separation is routinely assigned to individuals separated during the first 180 days of active duty. Therefore, the entry level separation was appropriate since you had served less than 180 days of active duty. The reason for separation, erroneous enlistment, is also correct since you should not have been enlisted due to your physical condition. The Board also noted that an RE-3E reenlistment code is the most favorable reenlistment code authorized by regulatory guidance for individuals discharged due to erroneous enlistment. The Board thus concluded that there is no error or injustice in your reenlistment code.

In addition, the Board concluded that it cannot take any action which would make you eligible for immediate enlistment in the Army. In this regard, the Board noted that irrespective of your reenlistment code, you are not eligible for enlistment at this time, because DOD Instruction 6130.4, paragraph E1.22.16 provides, in effect, that a pneumothorax occurring during the three years preceding an examination for enlistment disqualifies an individual from enlisting.

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