



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

JRE  
Docket No: 6213-01  
29 April 2002

[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.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 April 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.

The Board found that you enlisted in the Marine Corps on 24 July 1990. You received nonjudicial punishment on 10 January 1991 for violation of a lawful order by having possession of an alcoholic beverage in a bachelor enlisted quarters room, and failure to go to duty; on 28 February 1991 for violation of a regulation by drinking an alcoholic beverage while underage; on 14 May 1992 for being drunk on duty; and on 14 May 1993 for violation of orders by wearing earrings, and failing to report to a first sergeant when required to do so. You absented yourself without authority on 19 July 1993, and remained absent until 5 November 1993. You underwent a physical examination on 9 December 1993, and were found fit for separation. You specifically denied a history of depression or excessive worry and of nervous trouble of any sort in the SF 93, Report of Medical History, you completed on that date. No psychiatric abnormalities were noted by the independent duty medical corpsman who conducted the examination. You were convicted by special court-martial on 3 January 1994, of the aforementioned unauthorized absence, wrongful use of amphetamine/methamphetamine, and wrongful use of marijuana. You were sentenced to be discharged with a bad conduct discharge, to be confined for three months, forfeiture of

\$555.00 per month for three months, and reduction to E-1. The period of confinement was suspended, and you departed on voluntary excess leave without pay on 10 February 1994. Your conviction and sentence were approved by the U.S. Navy Court of Criminal Appeals on 28 February 1995, and you were separated from the Marine Corps with a bad conduct discharge on 12 June 1995.

The Board noted that it has no authority to take any action which would affect the finality of your conviction by special court-martial, and that its authority in this case is limited to correcting your record as a matter of clemency. The Board was unable to find any indication in the available records that the misconduct which resulted in your bad conduct discharge was related in any way to a mental disorder which was incurred in or aggravated by your period of naval service. In addition, it noted that in view of the basis for your discharge, you would not have been entitled to disability processing even if you had been found unfit for duty. The symptoms you experienced while on appellate leave were not incurred while you were entitled to basic pay, and would not be compensable in any event.

In view of the foregoing, 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