



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

ELP
Docket No. 1131-02
24 May 2002

[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 22 May 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 on 3 February 1981 for six years at age 20. The record reflects that you were advanced to airman and served without incident until 16 February 1982 when you received nonjudicial punishment (NJP) for selling marijuana, possession of a military identification card belonging to another Sailor, and failure to obey a lawful order. Punishment consisted of forfeitures of \$309 per month for two months and reduction in rate to airman apprentice.

On 13 June 1982 you were notified that you were being recommended for discharge under other than honorable conditions by reason of misconduct due to drug abuse. You were advised of your procedural rights, declined to consult with legal counsel, and waived the right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer (CO) recommended discharge under other than honorable conditions. In his recommendation, the CO stated the sale of illicit drugs is totally contrary to the goals of the command and the Navy's to

eradicate drug abuse, and personnel who sell illicit drugs to their shipmates cannot be tolerated in a forward deployed unit. On 3 August 1982 the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct due to drug abuse. You were so discharged on 23 August 1982.

In its review of your application the Board conducted a careful search of your service record for any mitigating factors which might warrant a recharacterization of your discharge. However, no justification for such a change could be found. The sale of drugs is a reprehensible offense for which the Navy has no tolerance and the Board believed that you were fortunate that you were not court-martialed. The Board noted the aggravating factor that you waived an ADB, which was the one opportunity you had to show why you should be retained or discharged under honorable conditions. You have provided neither probative evidence nor a persuasive argument in support of your application. 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