



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

WMP

Docket No: 1598-02
17 May 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 15 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.

The Board found that you enlisted in the Navy on 13 October 1994 for four years at age 21. You served without incident until 7 September 1995 when you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) from 19 August until 23 August 1995. Punishment imposed was forfeiture of \$100 and 15 days of restriction and extra duty.

You served without further incident until 9 May 1996 when you received NJP for failure to be at your appointed place of duty. The punishment imposed was a forfeiture of \$100 and 10 days of restriction and extra duty. On 24 June 1996, you again received NJP for a period of UA from 7 June 1996 until 11 June 1996. Punishment imposed was confinement on three days bread and water and forfeiture of \$490.

On 26 June 1996, you were notified that separation action was being initiated due to a pattern of misconduct. You were advised of and waived all of your procedural rights, except the right to submit written or verbal statements and to obtain copies of documents supporting the proposed separation.

Based on a positive urinalysis, you received NJP on 18 July 1996 for wrongful use of marijuana on or about 11 June 1996. Punishment imposed was extra duty and restriction for 45 days, forfeiture of \$490 per month for two months and a reduction in rate.

On 23 July 1996, you were notified that separation action was being initiated by reason of misconduct due to a pattern of misconduct and drug abuse. You were advised of and elected to retain all of your procedural rights, including your right to retain qualified counsel, the right to an administrative discharge board (ADB), and the right to obtain copies of documents supporting the proposed separation action.

On 29 July 1996, you amended your previously elected rights of 23 July and waived your rights to an ADB after consulting with your counsel. You stated in your letter that, "While I initially elected an administrative discharge board, I no longer desire to request an administrative board. Nevertheless, I respectfully request that you consider my statement in making a recommendation for characterization of service."

On 6 August 1996, the separation authority directed discharge under other than honorable conditions and, on 5 September 1996, you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your contention that you were unfairly imprisoned, judged and then lied to, and that you desire a another chance to service your country. However; the Board concluded that the record fully supported processing for separation due to a pattern of misconduct as evidenced by your three NJP's, and the positive urinalysis for marijuana fully supported separation due to drug abuse. It is also clear that you were fully cognizant of the Navy's "Zero Tolerance" policy concerning illegal drug usage, and that despite this

knowledge, you made a conscious decision to violate that policy and use marijuana. Furthermore, the Board concluded that your discharge under other than honorable conditions and the assignment of an RE-4 reenlistment code were appropriate, based on your four NJP's, one of which was due to a positive urinalysis test. 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