



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

TJR
Docket No: 6149-01
12 February 2002

[REDACTED]

Dear [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 Naval Records, sitting in executive session, considered your application on 5 February 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 25 May 1982 at the age of 21. Your record reflects that you served for two years without disciplinary incident but on 12 May 1984 you received nonjudicial punishment (NJP) for wrongful possession and use of marijuana and wrongful possession of drug paraphernalia. The punishment imposed was a \$500 forfeiture of pay, restriction for 45 days, and a reduction to rate.

Your record contains two substance abuse reports. The first report, dated 11 June 1984, notes the 12 May 1984 NJP and your assignment to a drug rehabilitation program. The second report, dated 30 November 1984, notes that your urine tested positive for marijuana on 25 October 1984 and states that your commanding officer was to process you for an administrative separation.

On 7 December 1984 you were notified of pending administrative separation action by reason of misconduct due to drug abuse as evidenced by the 12 May 1984 NJP and your continued use of drugs during rehabilitation. At that time you waived your rights to consult with legal counsel, present your case to an

administrative discharge board, and to submit a statement in rebuttal to the discharge. On 11 December 1984 your commanding officer recommended you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 20 December 1984 the discharge authority directed an other than honorable discharge, and on 3 January 1985 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, post service conduct, and your contention that you were not given notice of your discharge and where not afforded legal counsel or an ADB. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your drug related misconduct, and your choice to continue using drugs during rehabilitation treatment. Further, the Board noted that you were notified of your discharge and afforded all of your procedural rights, but chose to waive those rights. Given all the circumstances of your case, the Board concluded your discharge, was proper as issued 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