



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

TJR
Docket No: 7506-02
19 May 2003

[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 13 May 2003. 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.

You enlisted in the Navy on 30 December 1980 at age 26. You served for a year without disciplinary incident, but on 31 December 1981, you received nonjudicial punishment (NJP) for dereliction in the performance of your duty and were awarded a reduction to paygrade E-1.

You then served without disciplinary incident until 20 September 1983 when you received NJP for wrongful use and possession of marijuana. The punishment imposed was a \$200 forfeiture of pay and a reduction to paygrade E-2, which was suspended for six months. On 19 November 1983 your commanding officer submitted a written report stating that your potential for further service was good pending your behavioral changes upon completion of your rehabilitation treatment.

During the period from 20 to 30 April 1984 you were in an unauthorized absence (UA) status for 10 days. However, the record does not reflect that any disciplinary action was taken for this period of UA.

On 1 May 1984 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected your right to present your case to an administrative discharge board (ADB) and to submit a statement in rebuttal to the discharge. Shortly thereafter, on 7 May 1984, you received NJP for wrongful use of marijuana, wrongful possession of marijuana, absence from your appointed place of duty, and failure to obey a lawful order. The punishment imposed was a \$668 forfeiture of pay, reduction to paygrade E-2, and extra duty for 45 days. On 17 May 1984 you received NJP for failure to go to your appointed place of duty and absence from your appointed place of duty. The punishment imposed was extra duty for 45 days.

On 24 June 1984 an ADB recommended separation under other than honorable conditions by reason of misconduct due to drug abuse. Your commanding officer also recommended separation under other than honorable conditions by reason of misconduct due to drug abuse, stating, in part, as follows:

Totally concur with ADB.... member's record speaks for itself.... he is a recreational abuser of drugs and has no intention of stopping that illegal practice.... equally important, he daily becomes more nonproductive and is a growing administrative burden.... he is not suited for continued Naval Service and should be discharged.

On 25 July 1984 the discharge authority directed discharge under other than honorable conditions, and on 7 August 1984 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your contention that not being awarded an upgrade of your discharge is unfair since you have been out of the service for nearly 20 years. Nevertheless, the Board concluded that recharacterization of your discharge was not warranted because of your repetitive misconduct, which resulted in four NJPs, two of which were drug related. Further, no discharge is automatically upgraded due to the passage of time. 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