



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

TJR
Docket No: 6437-07
29 April 2008

[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 22 April 2008. 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 Marine Corps on 21 March 1972 at age 19. Nearly a year later, on 12 March 1973, you were subject to an investigation involving drug abuse. During this investigation you stated, in part, that you had 'bought 13 lids of marijuana' for \$50 in a partnership deal and had 'brought the marijuana on base' to sell.

On 10 June 1973 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your procedural rights. Your commanding officer recommended discharge under honorable conditions by reason of unfitness due to drug abuse. Subsequently, you signed a statement acknowledging the foregoing recommendation for discharge which noted the following:

I understand that, although I have been recommended for a general discharge by my commanding officer, I may be awarded an undesirable discharge if the record so warrants, and that

any waiver of rights made by me remains applicable even if the discharge authority decides to award an undesirable discharge.

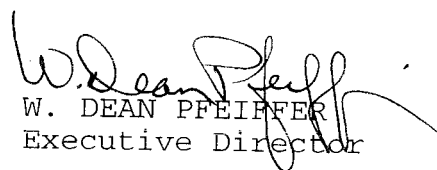
On 26 July 1973 the discharge authority approved the commanding officer's recommendation for discharge, but directed an undesirable characterization of service as warranted by your disciplinary record. On 26 July 1973 you received an undesirable discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that you were not afforded legal advice. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural rights. Finally, the Board noted that you also acknowledged the fact that even though you were recommended for a general discharge, such a discharge was not guaranteed, and that your discharge would be the type warranted by your service record. 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