



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

TJR  
Docket No: 7994-07  
17 September 2008



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 16 September 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 Navy on 5 December 1974 at age 19 and served for three years and two months without disciplinary incident. However, on 24 February 1978, you were apprehended and held in custody by Japanese civil authorities on a charge of marijuana purchase. As a result, you began a period of unauthorized absence (UA). On 1 March 1978 an investigative report regarding this arrest stated that you were involved in the possession, use, and sale of illicit drugs. However, on 8 March 1978, you submitted a written statement in which you denied being a drug dealer, but stated that you had used drugs prior to your enlistment. Shortly thereafter, on 6 April 1978, you were returned to military custody, thus ending a 40 day period of UA. Nonetheless, on 23 May 1978, you were convicted by Japanese civil authorities of Violation of the Narcotic Control Law of marijuana purchase and cocaine possession. You were sentenced to forced labor for 18 months, which was suspended for three years.

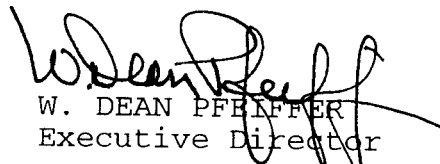
On 20 July 1978 you were notified of pending administrative separation action by reason of misconduct due to civil conviction and drug abuse. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 24 July 1978 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 4 August 1978 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct. Subsequently, the discharge authority approved these recommendations and directed an other than honorable discharge, and on 5 September 1978 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, post service conduct, and desire to have your discharge upgraded. It also considered the character reference letters submitted in support of your case. 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, no discharge is automatically upgraded due solely to the passage of time or an individual's good post service conduct. 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