



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

BAN
Docket No: 11054-07
6 August 2008

[REDACTED]

[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 6 August 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 in November 1975 and served without disciplinary incident until November 1976, when you received nonjudicial punishment (NJP) for wrongful use of marijuana.

Shortly thereafter, you received the following disciplinary actions: In April 1977, a summary court-martial (SCM) for unauthorized absence (UA), on 11 July 1977, NJP for being UA, and on 14 July 1977, NJP for breaking restriction. In September 1977, you received another SCM for UA and breaking restriction, and finally in October 1977, you received yet another SCM for UA and insubordinate behavior toward a warrant officer.

On 3 March 1978, you were notified of your processing for administrative separation due to misconduct. You were advised of

your rights and having consulted with counsel, elected to retain all of your rights. On 18 April 1978, you were sent to an administrative separation board and were found to have committed misconduct. You were recommended for discharge under other than honorable conditions. On 8 May 1978, the discharge authority approved these recommendations and directed a discharge under other than honorable conditions, and on 8 May 1978, you were so discharged.

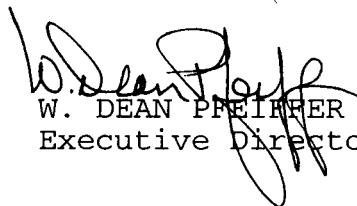
The case was sent to the Naval Discharge Review Board (NDRB) on 11 July 1984 by the American Legion on your behalf. The case was presented to NDRB on 4 January 1985 and denied.

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 the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. 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 client's case are such that favorable action cannot be taken. Your client is 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

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