



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

TJR  
Docket No: 2077-08  
23 January 2009

[REDACTED]

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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 January 2009. The names and votes of the members of the panel will be furnished upon request. 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.

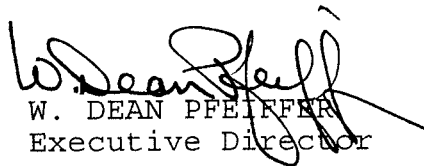
You enlisted in the Marine Corps on 19 November 1990 at age 19. You served without disciplinary incident until 29 January 1992, when you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. About seven months later, on 12 August 1992, you signed a certification of rights regarding summary courts-martial proceedings. On 13 August 1992 you were convicted by summary court-martial (SCM) of wrongful use of marijuana. You were sentenced to a reduction to paygrade E-1 and confinement for 30 days.

On 9 January 1993 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 1 February 1993 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 8 February 1993 the discharge authority approved this recommendation and on 18 February 1993 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 assertion that your discharge was inequitable because it was based solely on one isolated incident. It also considered your assertion of misrepresentation prior to your conviction by SCM. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which included wrongful use of marijuana. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is documented evidence in the record that is contrary to your assertion of misrepresentation prior to conviction by SCM. Accordingly, your application has been denied.

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