



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

SMS
Docket No: 2585-08
6 November 2008



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 5 November 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 25 May 1983, you reenlisted in the Marine Corps at age 25 after a prior period of honorable service. On 1 June 1983, your urinalysis tested positive for marijuana. On 20 June 1983, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions may result in disciplinary action or an other than honorable (OTH) discharge. On 7 July 1983, you had nonjudicial punishment (NJP) for use of marijuana and a two day period of unauthorized absence. On 14 July 1983, you were assigned to a urinalysis surveillance program and your first urinalysis tested positive for marijuana. On 15 July 1983, suspended punishment from the NJP was vacated.

On 25 July 1983, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, you acknowledged that separation could result in an OTH discharge and although you first elected to have your case heard by an administrative discharge board (ADB), you later waived that right after you consulted with counsel. On 16 August 1983, the separation authority approved the recommendation and directed

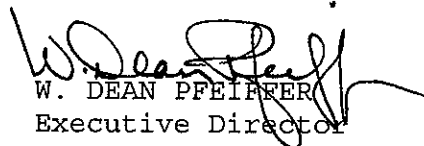
an OTH discharge by reason of misconduct due to drug abuse. On 29 August 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your prior period of honorable service and desire for a better discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in an OTH discharge. The Board also noted that although you first elected to have your case heard by an ADB, you later waived that right, which was your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board noted that as a result of your prior period of honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

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