



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

SJN
Docket No: 09661-08
24 August 2009



[REDACTED]

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 18 August 2009. 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 and began a period of active duty on 3 November 1982 at age 18. During the period from 6 July 1983 to 9 February 1984, you received three nonjudicial punishments (NJP's) for two instances of wrongful use of marijuana, making a false official statement, carrying a concealed weapon, and disobedience.

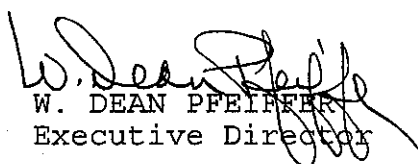
On 22 March 1984, administrative discharge action was initiated by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded your case with the recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 19 April 1984, you received a fourth NJP for wrongful use of marijuana. You received a reduction in paygrade and a forfeiture of pay.

On 3 May 1984, the separation authority directed an other than honorable discharge by reason of misconduct due to drug abuse. On 8 May 1984 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and belief that your characterization of service would be upgraded six months after you were discharged. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your four NJP's, three of which were for drug involvement. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. You should also understand that there is no provision in the law or naval regulations that allow for recharacterization automatically after six months or due solely to the passage of time. 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