



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

TJR
Docket No: 6140-10
8 April 2011

[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 5 April 2011. 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 Navy on 2 October 1972 at age 19 and immediately began a period of active duty. You served without disciplinary incident until 1 June 1973, when you were convicted by summary court-martial of a 73 day period of unauthorized absence (UA). You were convicted by civil authorities on 23 September 1973 of marijuana possession. While in a UA status, you were arrested by civil authorities on 3 December 1973 and charged with two counts of dispensing marijuana. On 11 July 1974 you were convicted by special court-martial (SPCM) of a 53 day period of UA.

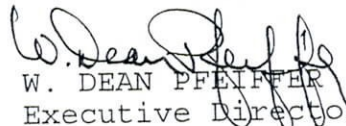
On 9 July 1975 you began another period of UA that was not terminated until you were apprehended and held in custody by civil authorities on 3 November 1975. Shortly thereafter, on 23 December 1975, you were convicted by civil authorities of marijuana possession and sentenced to confinement for 12 months.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to civil conviction and drug abuse. Although you waived your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB), an ADB recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction and drug abuse. Your commanding officer, in concurrence with the ADB, also recommended discharge under other than honorable conditions by reason of misconduct. On 11 March 1976 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 18 March 1976, 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 desire to upgrade your discharge. It also considered your assertion that had you known that you only needed three days left for a full term of service, you would have remained in the Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct in both the military and civilian communities. Finally, there is no evidence in the record, and you provided none, in support of your assertion. 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