



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

TRG
Docket No: 4225-98
15 July 1999

[REDACTED]

Dear [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 13 July 1999. 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.

The Board found that you enlisted in the Navy on 14 August 1980 at age 23. At that time you had completed over two years of active service in the Marine Corps and were honorably discharged on 24 May 1979.

The record shows that during the period 23 December 1980 to 18 February 1982 you received nonjudicial punishment (NJP) on six occasions. Your offenses were two periods of unauthorized absence totaling about 36 days, several absences from your appointed place of duty, resisting apprehension, use of provoking speech, possession of a controlled substances, disobedience and disrespect.

On 23 September 1982 you received your seventh NJP for possession and sale of LSD, possession of a dangerous weapon, an unauthorized absence of about three days, disobedience and disrespect.

Based on the foregoing record you were processed for an administrative discharge due to drug abuse. You were then an unauthorized absentee from 23 to 30 November 1982. An administrative discharge board met on 3 December 1982 and recommended that you be discharged for misconduct with a discharge under other than honorable conditions. On 7 December 1982 you received your eighth NJP for an unspecified period of unauthorized absence (probably the foregoing seven day period), and breaking restriction. On 8 February 1983 the discharge authority approved the recommendation of the administrative discharge board. However, you were not discharged until 6 May 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service and your contention that the 23 September 1982 NJP was improper because the drug charge was based solely on the testimony of an NIS informant who lied, and that your appeal of the NJP was not considered. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your extensive record of misconduct and especially the NJP for use and sale of LSD. Concerning the 23 September 1982 NJP, the Board was aware that regulations allow for the destruction of NJP evidence after two years and, therefore, the Board can not verify whether or not your appeal of the NJP was submitted or properly processed. However, the Board was aware that there was no mention of an NJP appeal in the transcript of the administrative discharge board. The Board concluded that in the absence of evidence to the contrary, the commanding officer did not abuse his discretion when he imposed NJP for the use and sale of LSD. The Board further 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.

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