



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

TJR
Docket No: 588-01
10 August 2001

[REDACTED]

Dear [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 7 August 2001. 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.

The Board found you enlisted in the Naval Reserve on 30 August 1978 at the age of 17. Your record reflects that during the period from 26 April to 24 August 1979 you received nonjudicial punishment (NJP) on three occasions for absence from your appointed place of duty, failure to obey a lawful order, possession of marijuana, and three incidents of having alcoholic beverages aboard your ship.

Your record further reflects that on 8 February 1980 you were convicted by special court-martial (SPCM) of failure to obey a lawful order, possession of marijuana, breaking restriction, and wrongful appropriation of government property valued at \$56. You were sentenced to reduction to paygrade E-1, a \$450 forfeiture of pay, and confinement at hard labor for 45 days. On 3 June 1980 you received NJP for failure to go to your appointed place of duty. The punishment imposed was a \$100 forfeiture of pay. During the period from 18 August to 25 September 1980 you received NJP on four more occasions for 10 specifications of failure to obey a lawful order, two specifications of possession of marijuana, disrespect, communicating a threat, and absence from your appointed place of duty.

On 26 September 1980 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. You waived your rights to consult with legal counsel, present your case to an administrative discharge board, or to submit a statement in rebuttal to the discharge. On 23 October 1980 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due drug abuse. On 21 November 1980 you received NJP for possession and consumption of alcoholic beverages in an unauthorized area. The punishment imposed was bread and water for three days. Subsequently, the discharge authority directed an other than honorable discharge by reason of misconduct and on 19 December 1980 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 immaturity and your supporting documentation. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive drug related misconduct. Given all the circumstances of your case, the Board concluded your 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