



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

TJR
Docket No: 2291-01
18 September 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 13 September 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 Navy on 27 December 1978 at the age of 17. Your record reflects that you served for a year and nine months without disciplinary incident. However, during the period from 15 September to 11 October 1980, you were in an unauthorized absence (UA) status on two occasions for 16 days. The record does not indicate what, if any, disciplinary action was taken for these periods of UA. On 11 December 1980 you received nonjudicial punishment (NJP) for four periods of absence from your appointed place of duty and were awarded a \$75 forfeiture of pay.

Your record further reflects that on 5 January 1981 you were convicted by civil authorities of three specifications of selling narcotics and were sentenced to confinement for 36 months. On 8 April 1981, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel, you waived your rights to present your case to an administrative discharge board or to submit a statement in rebuttal to the discharge. Your commanding officer recommended

you be discharged under other than honorable conditions by reason of misconduct due to civil conviction. Subsequently, the discharge authority directed an other than honorable discharge by reason of misconduct, and on 31 March 1981 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 contentions that you have paid your dues to society for your mistakes and, should not have to continue to be deprived of educational and employment opportunities. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your 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