



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

TJR
Docket No: 4038-01
21 November 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 14 November 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 Marine Corps on 13 July 1970 at the age of 18.

Your record contains a Naval Drug Rehabilitation Center report dated 14 June 1972, in which you were recommended for an administrative separation due to your unwillingness to cooperate in a drug rehabilitation therapy program as evidenced by your voluntary disclosure that you had continued to use heroin, barbiturates, marijuana, amphetamines, and lysergic acid diethylamide (LSD). Subsequently, on 9 August 1972, you were notified of pending administrative separation action by reason of unfitness due to drug abuse. At that time you waived your rights to consult with legal counsel, present your case to an administrative discharge board, or submit a letter of rebuttal to the discharge. On 16 August 1972 your commanding officer recommended you be discharged under other than honorable conditions by reason of unfitness due to drug abuse as evidenced by your disclosure of continued drug use and failure to participate in a rehabilitation program. On 18 August 1972 the discharge authority approved the commanding officer's

recommendation and directed an other than honorable discharge by reason of unfitness. On 22 August 1972 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, post service conduct, and your contention that your record has been expunged of all disciplinary infractions. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your failure to participate in a drug treatment rehabilitation program, and your continued use of drugs after enrollment in that program. Further, the Board noted that there is no evidence in the record, and you submitted none, to support your contention that your record had been expunged of your misconduct. The Board noted that you were granted a drug exemption to enter the rehabilitation program, and no disciplinary action was taken for the drug use which preceded the exemption. However, the exemption did not cover the drug use which occurred after you entered into the rehabilitation program. 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