



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

ELP
Docket No. 4378-01
19 October 2001



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 Navy Records, sitting in executive session, considered your application on 17 October 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 29 May 1980 for four years as an AN (E-3). At the time of your reenlistment, you had completed two years of prior active service.

The record reflects that you were advanced to AT3 (E-4) and served without incident until 27 March 1981, when you received nonjudicial punishment (NJP) for possession of a controlled substance. Punishment imposed consisted of a suspended reduction in rate to ATAN and a forfeiture of \$200.

On 13 January 1982 you were counseled regarding the unauthorized use of a controlled substance and warned that such misconduct could result in discharge under other than honorable conditions.

A substance abuse report submitted on 18 March 1983 stated that you denied any drug abuse since your drug related NJP in March 1981. However, a retest of your October 1982 urine sample was again verified as positive for marijuana. It was noted that while you were in an aftercare surveillance program, another sample tested positive for marijuana. Despite the NJP and repeated warnings, you continued to abuse drugs. The report concluded that you had no potential for further service and administrative discharge was recommended.

On 14 March 1983 you were notified that discharge under honorable conditions was being recommended by reason of misconduct due to drug abuse. You were advised of your procedural rights, declined to consult with legal counsel or submit a statement in own behalf, and waived the right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. However, on 7 April 1983, Commander, Naval Military Personnel Command (CNMPC) directed a general discharge. You were so discharged on 14 April 1983.

In its review of your application the Board conducted a careful search of your service record for any mitigating factors which might warrant a recharacterization of your general discharge. However, no justification for such a change could be found. The Board noted that at the time of your reenlistment, you had two years of prior active service and should have been well aware of the consequences of abusing drugs. Further, you failed to heed the warning regarding the use of controlled substances when you were counseled in January 1982. Your contentions that you believed that the urinalysis was inaccurate and that you were not properly counseled or advised of your rights is neither supported by the evidence of record nor by any evidence submitted in support of your application. Furthermore, you waived the right to present your case to an ADB, the one opportunity you had to show why you should be retained or separated with an honorable discharge. The Board believed that you were fortunate that CNMPC directed a general discharge since most individuals separated for drug abuse are discharged under other than honorable conditions. The Board concluded that the discharge was proper 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