



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

TJR
Docket No: 4801-01
9 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 7 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 10 July 1968 at the age of 18. Your record reflects that you served for two years without disciplinary incident but on 16 July 1970 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and were awarded restriction for seven days. On 3 September and again on 3 November 1970 you received NJP for failure to go to your appointed place of duty and disobedience.

Your record further reflects that on 12 and 29 April 1971 you received NJP for disobedience and a six day period of unauthorized absence (UA). On 4 June 1971 you were convicted by summary court-martial (SCM) of an 18 day period of UA and sentenced to a \$100 forfeiture of pay and restriction for 60 days. On 15 November 1971 you were convicted by special court-martial (SPCM) of a 33 day period of UA and five specifications

of failure to obey a lawful order. You were sentenced to confinement at hard labor for six months, a \$570 forfeiture of pay, and reduction to paygrade E-1.

On 23 November 1971 you were notified of proposed actions for an administrative separation by reason of unfitness due to drug abuse/misuse. At that time you waived the rights to consult with legal counsel, present your case to an administrative discharge board, or submit a letter of rebuttal to the separation. On 28 December 1971 your commanding officer recommended you be issued a general discharge by reason of misconduct due to drug abuse. The recommendation noted, in part, as follows:

(Member) admitted drug use since entry. His drug usage included: methadrine: 3 to 4 times a week; cocaine: 12 to 15 times, opium: twice; heroin: 12 to 15 times; barbiturates: once, hallucinogens: 18 to 24 times; and marijuana: 2 to 3 time a week.

Subsequently, the discharge authority approved the foregoing recommendation and directed a general discharge by reason of unfitness due to drug abuse. On 18 January 1972 you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and service in Vietnam. The Board also noted that all of your misconduct occurred after you returned from Vietnam. However, the Board concluded these factors and contention were not sufficient to warrant a change in the characterization of your discharge, narrative reason for separation, or reenlistment code because of the seriousness of your repetitive misconduct which included multiple periods of UA and extensive drug usage. Individuals discharged by reason of misconduct normally receive discharges under other than honorable conditions and the Board noted that you were fortunate to receive a general discharge. The Board concluded that your misconduct was sufficient to support the assignment of an RE-4 reenlistment code. Such a code is mandatory when individuals are separated by reason of misconduct due to drug abuse. Given all the circumstances of your case, the Board concluded your discharge, narrative reason for separation, and the assigned reenlistment code were proper and no changes are 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