



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

TJR
Docket No: 6958-01
5 April 2002

[REDACTED]

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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 2 April 2002. 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 24 April 1979 at the age of 18. Your record reflects that you served for nearly two years without disciplinary incident but on 10 February 1981 you received nonjudicial punishment (NJP) for two specifications of disobedience and absence from your appointed place of duty. The punishment imposed was a \$580 forfeiture of pay and a suspended reduction to paygrade E-4. Your record also reflects that on 28 February 1982 you extended your enlistment for 24 months.

Your record contains an administrative remarks entry dated 28 January 1983 which notes that you were being retained in the Navy even though your urine sample tested positive for marijuana on 4 January 1983. Your record also contains a speedletter, dated 30 September 1983, which identified you as a drug abuser, and noted that you were placed in a Navy drug abuse surveillance program and had enrolled in drug abuse classes. However, on 21 October 1983, you received NJP for cocaine use. The punishment imposed was reduction to paygrade E-4, extra duty and restriction for 45 days, and a \$400 forfeiture of pay.

On 21 October 1983 you were you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 2 November 1983 your commanding officer recommended an honorable discharge by reason of misconduct due to drug abuse. However, on 26 November 1983, the discharge authority disapproved the foregoing recommendation and directed your commanding officer to reprocess you for an other than honorable discharge. On 7 December 1983 you were again notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you were advised that the characterization of your service could be under other than honorable conditions. Again, you waived your rights to consult with legal counsel and to present your case to an ADB. On 21 December 1983 your commanding officer recommended you be separated under other than honorable conditions due to drug abuse. The recommendation noted, in part, as follows:

Although his service to the command has brought him credit, those instances of misconduct resulting in NJP have marred his record and his drug abuse has not been conducive to good order and discipline. Counselling requirements were met after his first drug abuse incident. His second (drug abuse) incident, eight months later, demonstrates his failure to support Navy policy.

On 3 January 1984 the discharge authority approved the foregoing recommendation and directed an other than honorable discharge by reason of misconduct. On 13 January 1984 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 good post service conduct. The Board also considered your many character reference letters, performance evaluation, reference list, certificates, and awards. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the two NJPs and the serious nature of your drug related misconduct. Given all the circumstances of your case, the Board concluded your 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