



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

WMP

Docket No: 1021-02
11 July 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 of the 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 10 July 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 11 August 1983 at age 19 and immediately reported for 36 months of active duty. Your record reflects that you served without incident until 9 January 1984, when you received non-judicial punishment (NJP) for larceny. The punishment imposed was a forfeiture of \$288 per month for two months and 30 days of extra duty. On 1 October 1984 you received a second NJP for failure to go to your appointed place of duty for which you received forfeiture of \$200 per month for two months.

On 4 May 1985 a psychiatric evaluation was conducted at the request of your command due to your inability to control your temper. The psychiatrist diagnosed you with an immature personality disorder but found that you were fit for duty.

Your record further reflects that on 3 October 1985 you received NJP for use of marijuana and possession of drug paraphernalia. The punishment imposed was a forfeiture of \$300 per month for two months, 45 days of restriction and extra duty and a reduction in rate. On 17 October 1985 you again received NJP for disrespect to a chief petty officer and use of a controlled substance. The punishment imposed was a forfeiture of \$300 per month for two months, a reduction in rate, and three days confinement with bread and water.

On 13 November 1985 administrative separation action was initiated by reason of misconduct due a pattern of misconduct and drug abuse. You were advised of and waived all of your procedural rights with the exception of the right to obtain copies of documents supporting the proposed separation.

On 16 November 1985 the commanding officer forwarded the separation action, recommending an other than honorable discharge, to the Commander, Naval Military Personnel Command (CNMPC). On 20 November 1985 CNMPC directed discharge under other than honorable conditions due to misconduct (drug abuse-use). On 3 December 1985, you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and your contention that you began suffering symptoms of a mental illness at the time of your misconduct. However, the Board concluded that the record fully supported processing for separation due to misconduct due to a pattern of misconduct and drug abuse due to your five NJP's, two of which were for drug use. It is also clear that you were fully cognizant of the Navy's "Zero Tolerance" policy concerning illegal drug usage, and that despite this knowledge, you made a conscious decision to violate that policy and use illegal drugs. Therefore, the Board concluded that your discharge under other than honorable conditions was appropriate. Furthermore, your contention that you were beginning to suffer the effects of mental illness and that you did not know what was happening at the time of your misconduct is not supported by any evidence in your record, and you have not provided any substantiating evidence for this claim. In this regard, a diagnosed personality disorder does not relieve an individual of responsibility for his actions and is insufficient to mitigate

your record of persistent misconduct. 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