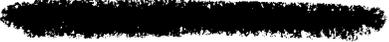




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No: 2600-02
19 August 2002



This is in reference to your application for correction of your husband's 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 14 August 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 husband's 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.

Your husband enlisted in the Marine Corps on 14 April 1969 for four years at age 21. His record reflects that he served without incident until 30 December 1969, when he received nonjudicial punishment for unauthorized absence from 1 to 26 December 1969, a period of 25 days. The punishment imposed was a forfeiture of \$35 per month for two months, 60 days of restriction, and reduction to paygrade E-1.

On 20 January 1970, your husband provided a written statement concerning his pre and in-service drug usage including use of marijuana and LSD from September to December 1969.

On 12 February 1970, your husband became an unauthorized absentee from his unit and remained absent until 23 February 1970, when he was arrested by police in Toronto, Canada and

charged with attempted fraud. The record does not contain any disposition of these charges. Your husband was deported from Canada on 2 March 1970 and was held in a local civilian jail until he was returned to his unit on 13 March 1970.

On 13 March 1970, your husband was notified that separation action was being initiated by reason of unfitness due to drug abuse, as evidenced by the wrongful purchase, possession/use or sale of marijuana and LSD. He was advised of and waived his right to counsel and all of his other procedural rights.

On 24 March 1970, your husband was convicted by summary court-martial of an unauthorized absence from 12 February to 2 March 1970. The punishment imposed was confinement at hard labor for 30 days and forfeiture of \$80. On 2 April 1970, the convening authority approved the adjudged sentence and ordered its execution.

On 20 March 1970, the separation authority directed your husband's undesirable discharge by reason of unfitness due to his unauthorized use of dangerous drugs and marijuana and, on 22 April 1970, he was so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your husband's youth and immaturity, and the fact that it has been 32 years since his discharge. However, the Board concluded that his NJP, summary court-martial, 46 days of unauthorized absence and his extensive in-service drug usage supported his undesirable discharge by reason of unfitness. Furthermore, the Board noted that there is no evidence that your husband performed any foreign service, including service in the Republic of Vietnam. 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