



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

TJR
Docket No: 3601-01
22 January 2002

[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 15 January 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 12 September 1994 at the age of 18. Your record reflects that you served for two years and six months without disciplinary incident.

On 28 May and 6 June 1997, after undergoing psychiatric examinations, you were diagnosed with an adjustment disorder and a depressed mood. The psychiatric reports noted, in part, that you were frustrated with Navy life. This reports also noted that you had feelings of self-harm and were extremely unhappy with military life.

Your record further reflects that on 20 August 1997 you received nonjudicial punishment (NJP) for wrongful use of marijuana on diverse occasions from March to July 1997. The punishment imposed was a \$500 forfeiture of pay, restriction and extra duty for 45 days, and a reduction to paygrade E-2. On 27 August 1997,

following a medical examination, you were found to be a drug abuser, but not drug dependent. You were offered, but declined, out-patient treatment at an alcohol and drug rehabilitation center.

On 4 September 1997 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, present your case to an administrative discharge board, and to submit a statement in rebuttal to the discharge. On 9 September 1997 your commanding officer recommended you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. The recommendation noted, in part, that you were incapable of adhering to the rules and regulations of the Navy and that you were simply unwilling to conduct yourself in a manner conducive to good order and discipline.

Subsequently, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse and on 13 October 1997 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 your post service conduct. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive drug related misconduct and your choice to decline an offer for rehabilitation treatment. Given all the circumstances of your case, the Board concluded your discharge, was proper as issued 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