



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

TJR
Docket No: 7508-02
19 May 2003

[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 13 May 2003. 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.

You reenlisted in the Navy on 7 August 1981 after four years of prior honorable service. You continued to serve without disciplinary incident until 14 July 1982 when you received nonjudicial punishment (NJP) for disrespect and failure to obey a lawful order. The punishment imposed was restriction and extra duty for 20 days, a \$300 forfeiture of pay, and reduction to paygrade E-3. On 6 October 1982 you received NJP for a three day period of unauthorized absence (UA) and disobedience. The punishment imposed was restriction and extra duty for 20 days and a \$200 forfeiture of pay.

On 14 April 1983 you received NJP for breach of peace and assault and were awarded restriction and extra duty for 30 days, reduction to paygrade E-2, and a \$250 forfeiture of pay. On 2 December 1983 you received your fourth NJP for absence from your appointed place of duty and wrongful use of marijuana. The punishment imposed was reduction to paygrade E-1, restriction and extra duty for 30 days, and a \$300 forfeiture of pay.

Subsequently, on 9 February 1984, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board. On 16 February 1984 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 26 February 1984 the discharge authority directed an other than honorable discharge by reason of misconduct, and on 2 March 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 prior honorable service and your contentions that you did not use drugs and were denied a second urinalysis test to prove your innocence. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in four NJPs. Further, the Board noted that the record shows that you were given an opportunity to defend yourself, but waived your procedural rights. The Board further noted that there is no evidence in the record, and you submitted none, to support your contention that you did not use drugs. 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