



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

TJR
Docket No: 8603-06
17 July 2007

[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 17 July 2007. 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 enlisted in the Marine Corps on 23 April 1984 at age 17 and served without disciplinary incident until 14 January 1986, when you received nonjudicial punishment (NJP) for wrongful possession of marijuana and were awarded reduction to paygrade E-2 and a \$500 forfeiture of pay.

On 13 January 1987, you received NJP for a two day period of unauthorized absence (UA) and were awarded a \$180 forfeiture of pay and restriction and extra duty for 14 days.

Your record contains two drug and alcohol reports dated 23 January and 6 February 1987. Both reports reflect that during the period from 29 December 1986 to 22 January 1987 your urine tested positive on two occasions for marijuana. As a result, on 15 April 1987, you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for two specifications of wrongful possession and use of marijuana.

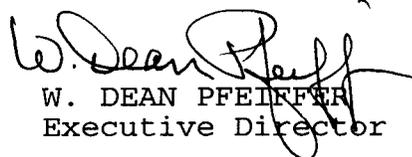
Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. On 1 May 1987 your request for discharge was granted, and on 11 May 1987 you received an other than honorable discharge in lieu of trial by court-martial. As a result, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that you are a veteran in name only, and are ineligible for benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct, and your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and should not be permitted to change it now. 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