



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

SMW

Docket No: 9816-06
29 March 2007

[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 28 March 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.

On 25 July 1980 you enlisted in the Navy at age 17 with parental consent. You then served without incident for about a year. However, during the period from 30 July 1981 to 8 January 1983 you received four nonjudicial punishments (NJP's) and were convicted by a summary court-martial (SCM). Your offenses included five instances of unauthorized absence (UA) totaling about 65 days, missing the movement of your ship, use and possession of marijuana, failure to go to your appointed place of duty, absence from your appointed place of duty and larceny. On 28 January 1983 you were counseled regarding deficiencies in your performance and conduct, and warned that further infractions could result in disciplinary action or administrative separation. Subsequently, during a substance abuse evaluation, you disclosed that you had continued to use marijuana and hashish. The evaluation found that you were not dependent, and your commanding officer (CO) did not grant you a drug exemption.

On 1 February 1983 administrative separation was initiated by reason of misconduct due to commission of a serious offense and

drug abuse. In connection with this processing, you acknowledged that separation could result in an other than honorable discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 4 March 1983 the separation authority directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 10 March 1983 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 the period of time that has elapsed since your discharge. The Board also considered your contention that you tried to apply for a hardship discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your repetitive misconduct, some of which was drug-related. Regarding your contentions, there is no evidence in the record to show that you tried to apply for a hardship discharge. But even if there were such evidence, that would not excuse your misconduct. Furthermore, there is no provision in the law or regulations that allows for recharacterization due to the passage of time. Finally, the Board noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the 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