



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

TJR
Docket No: 2911-07
11 February 2008

[REDACTED]

[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 5 February 2008. 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 Navy on 2 December 1981 at age 19. About three months later, on 4 March 1982, you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totalling 37 days. The punishment imposed was correctional custody for 30 days, a \$600 forfeiture of pay, and a reduction in rate. On 8 June and again on 5 November 1982 you received NJP for purchasing and contributing alcohol to a minor and wrongful use of marijuana.

On 7 May 1985 you received your fourth NJP for wrongful use of marijuana and were awarded reduction to paygrade E-2, a \$758 forfeiture of pay, extra duty for 30 days, and restriction for 45 days. The next day, on 8 May 1985, 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 (ADB). On 1 June 1985 your commanding officer

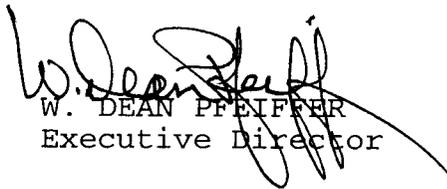
recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 7 June 1985 the discharge authority approved this recommendation and directed an other than honorable discharge, and on 17 June 1985 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertions that your discharge is hindering your ability to provide for your family, and you have paid for your lack in judgment. It also considered your assertion of legal misrepresentation and that you believe your punishment was too harsh since you did not commit a felonious act. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug and alcohol related misconduct. Finally, there is evidence in the record that is contrary to your assertions. 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