



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

TJR
Docket No: 3814-07
15 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 12 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 reenlisted in the Navy on 13 February 1981 and served without disciplinary incident until 17 July 1981, when you were convicted by summary court-martial (SCM) of wrongful possession and use of marijuana. You were sentenced to hard labor for 30 days and a suspended \$375 forfeiture of pay. On 8 September and again on 3 November 1981 you received nonjudicial punishment (NJP) for a 15 day period of unauthorized absence (UA), absence from your appointed place of duty, failure to obey a lawful order, failure to go to your appointed place of duty, wrongful use of marijuana, two specifications of wrongful possession of marijuana, wrongful possession of hashish, possession of a concealed weapon, and wrongful possession of drug paraphernalia.

On 4 November 1981 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On

15 December 1981 your commanding officer recommended separation by reason of misconduct due to drug abuse and frequent involvement of a discreditable nature with military and civilian authorities as evidenced by your SCM, NJP, and the transfer of tax exempt goods to unauthorized persons.

On 3 January 1982 the discharge authority directed discharge under honorable conditions by reason of drug abuse. However, on 11 January 1982, you were convicted by special court-martial (SPCM) of wrongful possession of marijuana and drug paraphernalia. You were sentenced to confinement at hard labor for three months and a \$999 forfeiture of pay. Shortly **thereafter, on 2 February 1982, your commanding officer forwarded** a message to the discharge authority stating, in part, as follows:

(Member) convicted by foreign civil authorities of triple homicide in 1979 (pending application for reduced sentence, pardon, and parole...); and was arrested by foreign civil authorities of black-marketing.

On 13 May 1982 the foregoing discharge action was held in abeyance pending foreign civil authority action due to your black-marketing offenses. Subsequently, you were reprocessed for an administrative separation by reason of misconduct due to drug abuse, and on 13 August 1982 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as period of honorable service, post service conduct, and desire to upgrade your discharge. 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 which resulted in two NJPs and two court-martial convictions. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, even though you were recommended for a more favorable characterization of service you continued your repeated misconduct in both the military and civilian communities. 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