



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

SMW

Docket No: 5540-07
31 January 2008



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 29 January 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.

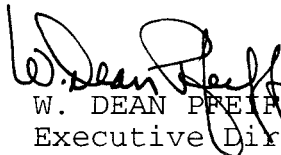
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 14 March 1983, enlistment documents were completed in which you disclosed civil offenses and indicated a charge of trespassing was dismissed. On 13 April 1983, you enlisted in the Navy at age 25. On 29 April 1983, you were granted a pre-service drug abuse waiver. On 22 August 1983, you were notified that you were suspected of not disclosing all of your civil offenses prior to enlistment, specifically, possession of marijuana. At that time you stated that prior to enlistment you were charged with possession of marijuana, and you believed that you did not have to disclose this since that charge was dismissed. On 22 August 1983, your commanding officer initiated administrative separation by reason of defective enlistment due to fraudulent entry, and recommended a general discharge. In connection with this processing, you acknowledged the separation action and did not object. On 7 September 1983, the separation authority approved the separation recommendation and directed a general discharge by reason of defective enlistment due to fraudulent entry. On 6 October 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and admission that you did not mention the charge of possession of marijuana during the enlistment processing because the charge was dismissed and not a matter of local record. Nevertheless, the Board concluded that these factors were not sufficient to warrant changing the reason for separation since your record clearly shows that during the enlistment processing you disclosed another civil offense that was dismissed, but failed to disclose possession of marijuana charges that were also dismissed. Furthermore, a waiver for pre-service drug use does not excuse your failure to disclose all pre-service criminal involvement. 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