



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 7743-07

20 August 2008

[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 19 August 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 Naval Reserve on 21 August 1990 at age 19. You served for nearly a year without disciplinary incident, but on 3 August 1991 you began a period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 17 October 1991. You were subsequently returned to military custody, but on 3 November 1991, you began another period of UA that was not terminated until 7 January 1992. During these periods of UA you were declared a deserter and had wrongfully used marijuana.

On 7 February 1992 you were convicted by special court-martial (SPCM) of two periods of UA totalling 140 days and wrongful use of marijuana. You were sentenced to confinement for 90 days and a \$1,500 forfeiture of pay.

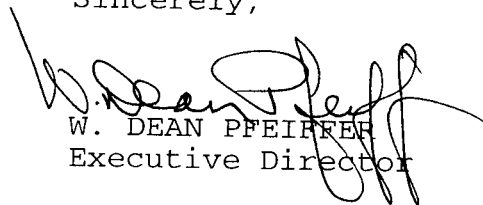
On 12 March 1992 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 15 April 1992 your commanding officer recommended separation under other than honorable conditions by reason of misconduct due to commission of a serious offense and drug abuse. On 6 June 1992 the discharge authority approved this recommendation and directed an other than honorable discharge, and on 12 June 1992, you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that your behavior was due to your immature judgment, but did not have an adverse effect on your duties or responsibilities. It also considered your requests to change your narrative reason for separation and reenlistment code so that you may reenlist. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your narrative reason for separation or reenlistment code because of the seriousness of your repetitive and lengthy periods of UA and your drug related misconduct. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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