



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

TJR
Docket No: 7948-07
10 September 2008



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 9 September 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 Marine Corps on 28 March 1981 after four years of prior honorable service. You served without disciplinary incident until 13 May 1983, when you received nonjudicial punishment (NJP) for wrongful use of marijuana. The punishment imposed was reduction to paygrade E-4 and a \$800 forfeiture of pay. On 28 September 1983 you received NJP for four periods of unauthorized absence (UA) totalling four days. The punishment imposed was reduction to paygrade E-3 and restriction for 30 days, which was suspended for six months.

On 19 December 1983 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 29 December 1983 your commanding officer recommended discharge under honorable conditions by reason of misconduct. This recommendation was based partially on your prior service and your

sufficiently high conduct and proficiency marks. However, on 13 February 1984, the discharge authority disapproved this recommendation and directed discharge under other than honorable conditions by reason of misconduct due to drug abuse, and on 22 February 1984 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of prior honorable service and desire to upgrade your discharge. It also considered your assertion of mental illness for over 30 years. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Concerning your allegations of mental problems, there is no indication in the record that such problems existed at the time of your service. Furthermore, if such problems did exist they were not so serious as to excuse you of responsibility for your actions. In this regard, mental problems are not an excuse for misconduct, and disciplinary action and administrative separation were appropriate in your case. 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