



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

TJR  
Docket No: 7972-07  
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 enlisted in the Navy on 11 September 1978 at age 18 and served for nearly three years without disciplinary incident. However, on 6 August 1981, you received nonjudicial punishment (NJP) for absence from your appointed place of duty. The punishment imposed was a \$50 forfeiture of pay and restriction and extra duty for seven days.

On 18 February 1982 you were convicted by special court-martial (SPCM) of two specifications of uttering worthless checks and sentenced to confinement at hard labor for two months, a \$400 forfeiture of pay, and reduction to paygrade E-3. On 25 June 1982 you received NJP for an 18 day period of unauthorized absence (UA) and were awarded a \$300 forfeiture of pay and reduction to paygrade E-3, which was suspended for six months. Shortly thereafter, on 19 August 1982, you were convicted by summary court-martial (SCM) of wrongful possession of cocaine.

You were sentenced to restriction for 60 days, hard labor for 45 days, reduction to paygrade E-1, and a \$367 forfeiture of pay.

On 28 August 1982 you were notified of pending administrative separation action by reason of misconduct due to drug abuse and frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 28 August 1982 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct as evidenced by your deliberate misconduct and/or actions to be processed for separation at any cost. On 11 October 1982 the discharge authority approved this recommendation and directed an other than honorable discharge, and on 12 October 1982 you were so discharged.

Although the record reflects you were incorrectly issued a general discharge certificate, you were properly processed for separation under other than honorable conditions by reason of misconduct.

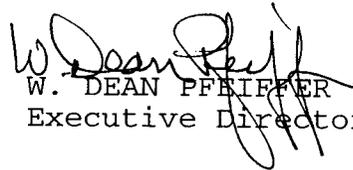
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to have your discharge upgraded. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in two NJPs, two court-martial convictions, and included drug abuse. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time or an individual's good post service conduct. 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 PFIEFFER  
Executive Director