



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

TJR
Docket No: 8129-07
9 October 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 7 October 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 5 August 1980 at age 19 and served about three months without disciplinary incident. However, on 10 December 1980, you received nonjudicial punishment (NJP) for wrongful possession of marijuana, two specifications of carrying a concealed weapon, and buying stolen property. The punishment imposed was a \$400 forfeiture of pay and restriction and extra duty for 20 days. On 2 March 1982 you received NJP for communicating a threat and were awarded a suspended forfeiture of pay.

On 23 May 1985 you received NJP for wrongful use of cocaine. The punishment imposed was extra duty for 45 days, a \$924 forfeiture of pay, and reduction to paygrade E-4. Shortly thereafter, on 30 May 1985, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On

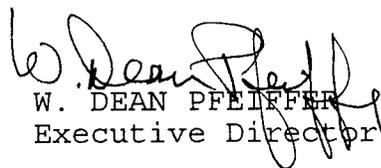
14 June 1985 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 30 June 1985 the discharge authority approved this recommendation, and on 12 July 1985, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and post service conduct. It also considered your assertion that you were not afforded treatment for your chemical dependency. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive drug related misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural rights 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