



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

TJR
Docket No: 8740-07
27 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 21 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 22 October 1979 at age 17 and served without disciplinary incident, until 20 August 1982, when you received nonjudicial punishment (NJP) for two specifications of failure to obey a lawful order and two periods of absence from your appointed place of duty. On 10 November 1982, after displaying an unusual behavior at work and a physical injury to your ankle, you were referred for a urinalysis screening. As a result of this screening your urine tested positive for marijuana. Subsequently, on 5 August 1983, you received your second NJP for wrongful use of marijuana and were awarded restriction for 60 days, reduction to paygrade E-3, and a \$734 forfeiture of pay, which was suspended for six months.

On 30 September 1983 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 30 September 1983 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 8 October 1983 the discharge authority approved this

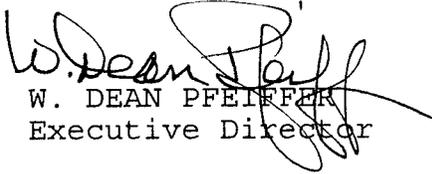
recommendation and directed an other than honorable discharge by reason of misconduct due to drug abuse, and on 17 October 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertion that you were told that your discharge would be automatically upgraded six months after being discharged. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct as evidenced by two NJPs and drug abuse. Finally, no discharge is automatically upgraded due solely to the passage of time. 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