



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

RDZ:ecb
Docket No. 10459-07
22 August 2008

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 13 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the navy on 14 May 1982 at age 20. You received nonjudicial punishment (NJP) on 9 July 1983 for three days of unauthorized absence which was due to your arrest by civil authorities for disorderly conduct and destruction of property. Additional charges at your NJP included disrespect to a commissioned officer, disobedience of a lawful order, resisting apprehension and assault. On 30 November 1983 you received a second NJP for illegal use of marijuana. Based on your use of drugs as well as your prior misconduct you appeared before an administrative discharge board (ADB) that recommended that you

be separated with an other than honorable (OTH) discharge but that the discharge be suspended for one year on condition of no further misconduct. Unfortunately less than a month later you tested positive for using marijuana. Consequently you received an OTH discharge on 26 March 1984.

Upon review and consideration of all the evidence of record the Board concluded that in view of your repeated drug usage and other acts of misconduct your discharge was proper as issued and should not be changed now as a matter of clemency.

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

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American Legion