



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

SJN
Docket No: 00070-08
11 December 2008

[REDACTED]

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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 9 December 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 30 September 1981 after three years of honorable service. On 13 August 1982, you gave a urine sample that test positive for marijuana. On 1 September 1992, a subsequent urinalysis was administered, which also tested positive for marijuana.

On 5 October 1982, you received nonjudicial punishment (NJP) for wrongful use of marijuana. You received a reduction in rate and a forfeiture of pay. Additionally, you were placed on your command's urinalysis program. On 25 September 1982, you provided a urine sample that proved to be negative. However, on 28 October 1982, you were tested again, and your sample tested positive for marijuana use.

On 18 March 1983, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB).

Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 15 July 1983, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. You were so discharged on 12 August 1983.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, and overall record of your last period of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in NJP for drug use, and failure to adhere to your command's rehabilitation program. Further, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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