



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

TJR
Docket No: 682-08
1 December 2008

[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 25 November 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 24 June 1966 at age 17 and served for eight months without disciplinary incident. However, on 8 February and again on 11 April 1967 you received nonjudicial punishment (NJP) for using profanity and a four day period of unauthorized absence (UA). On 5 June 1967 you were convicted by summary court-martial (SCM) of wrongful use of harmful drugs, being incapacitated for duty, and wrongful possession and use of marijuana. On 30 October 1967 you were convicted by special court-martial (SPCM) of breaking restriction and two periods of UA totalling 75 days.

On 21 November 1967 you were notified of pending administrative discharge action by reason of unfitness due to frequent involvement of a discreditable nature with military or civilian 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 24 November 1968 your commanding officer recommended discharge under other than honorable conditions by reason of unfitness due to frequent involvement of

a discreditable nature with military or civilian authorities as evidenced by possession and use of marijuana and other harmful drugs/narcotics, specifically, lysergic acid diethylamide (LSD). On 19 December 1967 the discharge authority approved this recommendation and directed separation under honorable conditions by reason of unfitness and on 24 January 1968 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 have your discharge upgraded. It also considered your assertion that you were a conscientious objector and are now participating in a drug rehabilitation program. 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 and two court-martial convictions, and included drug abuse. Finally, you were given an opportunity to defend yourself, but waived your procedural right 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