



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

SMS
Docket No: 1576-08
6 October 2008

[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 1 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.

On 25 June 1973, you enlisted in the Marine Corps at age 18. On 29 May 1975, you were apprehended by foreign civil authorities and held pending charges. On 17 September 1975, you were convicted in Japanese civil court of international smuggling and transportation of marijuana. The court sentenced you to two years of confinement with forced labor.

On 17 September 1975, your commanding officer initiated administrative separation by reason of misconduct due to a civil conviction. In connection with this processing, you acknowledged that separation could result in an undesirable discharge (UD) and elected to have your case heard by an administrative discharge board (ADB). On 29 September 1975, an ADB convened and found that you were guilty of misconduct due to a civil conviction and the majority recommended a UD. On 15 October 1975, the separation authority approved the discharge recommendation and directed a UD by reason of

misconduct due to a civil conviction, but directed that discharge be held in abeyance pending your return to military authorities. On 26 October 1976, you were released from civil confinement. On 17 November 1976, you were discharged with a UD by reason of misconduct due to a civil conviction.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and civil conviction that resulted in discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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