



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

SMS
Docket No: 2669-08
20 November 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 19 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 26 February 1982, you enlisted in the Navy Reserve at age 17 with parental consent and began a period of active service on 7 September 1982. On 3 May 1983, you had nonjudicial punishment (NJP) for use of marijuana, were warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge, and advised to seek assistance with a substance abuse counselor. On 20 July 1983, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an OTH discharge. During the period 21 July 1983 to 28 September 1984, you had NJP on two occasions and suspended punishment was vacated. Your offenses included absence from your appointed place of duty, disobedience of a lawful order, and use of marijuana.

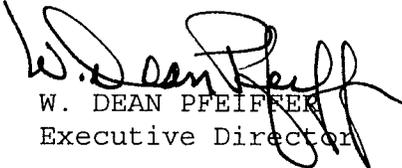
On 20 October 1984, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse and a pattern of misconduct. In connection with this processing, you acknowledged that separation could result in an OTH discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 24 October 1984, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 25 October 1984, you had NJP for two instances

of failure to obey a lawful order. On 6 November 1984, you were discharged with an OTH discharge by reason of misconduct due to drug abuse.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contention that you should have received substance abuse counseling. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Regarding your contention, the record shows that you were counseled after your first drug related offense and advised to request assistance with a substance abuse counselor, but there is no evidence in the record to show that you requested or were denied assistance. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. 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