



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

SMS
Docket No: 3022-08
4 December 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 3 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 22 February 1977, you enlisted in the Navy at age 21 and served without incident until 13 August 1979, when you were convicted by a summary court-martial for possession of a

controlled substance and attempting to steal a controlled substance. On 13 March 1980, you had nonjudicial punishment for dereliction in the performance of your duties. On 11 September 1980, you were convicted in civil court of forging three pharmaceutical prescriptions. On 1 December 1980, you were convicted by a special court-martial of two instances of stealing Percocet, falsely altering a pharmaceutical prescription with the intent to defraud, and falsely making a pharmaceutical prescription in its entirety with the intent to defraud. Your sentence included confinement, forfeitures of pay, reduction in rank, and a bad conduct discharge (BCD). A portion of your sentence was subsequently reduced and your

request for clemency was denied. After the BCD was approved at all levels of review, on 31 December 1981, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and desire for a better 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