



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

BAN  
Docket No: 04115-08  
5 February 2009

[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, 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 23 January 2009. 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 14 November 1972, and served without disciplinary incident until 17 January 1974, when you received nonjudicial punishment (NJP) for failure to obey a lawful order and failure to obey a general regulation. Additionally, on 12 February 1974, you were being investigated by the Naval Criminal Investigative Services (NCIS) for the use and distribution of illegal drugs.

Shortly thereafter, you received the following NJP's: on 19 March 1974, for eleven specifications of unauthorized absence (UA); and on 24 May 1974, for six specifications of UA and failure to obey a lawful order.

In June 1974, you were arrested by civilian authorities for driving without a license. On 17 July 1974, as a result of the NCIS investigation, you were convicted in civilian court for the

selling and distribution of illegal drugs. You were sentenced to 90 days in county jail and therefore, were UA from your command for 90 days.

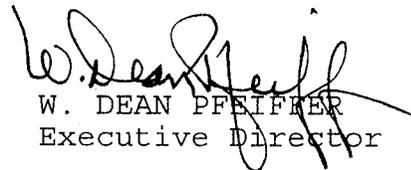
Upon your release from jail, you were returned to military authorities, and on 16 December 1974, you were separated from military service due to frequent involvement of a discreditable nature with a general discharge and an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and belief that enough time has elapsed to warrant upgrading your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Further, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. Furthermore, the Board believed that considerable clemency was extended to you when you received a general discharge. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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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