



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

TJR
Docket No: 5016-08
5 March 2009

[REDACTED]

[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 3 March 2009. The names and votes of the members of the panel will be furnished upon request. 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 February 1977 at age 17 and served for nearly a year without disciplinary incident. However, on 19 February 1978, you received nonjudicial punishment (NJP) for wrongful possession of hashish, resisting arrest, and larceny. On 27 September 1978 you received NJP for three periods of unauthorized absence (UA) totalling three days, absence from your appointed place of duty, missing the movement of your ship, failure to obey a lawful order, and two specifications of dereliction of duty.

On 29 May 1979 you were convicted by Japanese civil authorities of robbery and sentenced to confinement at forced labor for four years. As a result, on 5 June 1979, you were notified of pending administrative separation action by reason of misconduct. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 14 December 1979 an ADB recommended separation under other than honorable

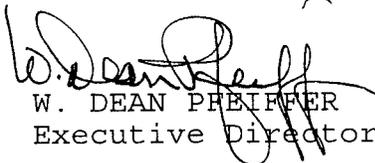
conditions by reason of misconduct due to civil conviction. On 6 February 1980 your commanding officer also recommended separation under other than honorable conditions by reason of misconduct. On 3 October 1980 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to civil conviction. However, on 28 September 1981, you were erroneously issued an other than honorable discharge by reason of misconduct due to 'drug abuse.'

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities. Accordingly, your application has been denied.

The Board noted that the narrative reason for separation on your Certificate of Release or Discharge from Active Duty (DD Form 214) is incorrect because you were not processed for separation by reason of misconduct due to drug abuse. If you would like a corrected certificate, you may contact the Department of the Navy, Navy Personnel Command (BUPERS), Sailor Assistance Center, Code Pers-312F, 5720 Integrity Drive, Millington, TN 38055-3120 to request an administrative change be made to your DD Form 214.

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