



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

TJR
Docket No: 5312-08
8 April 2009



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 7 April 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 27 October 1981 at age 19 and began a period of active duty on 7 January 1982. You served without disciplinary incident until 30 June 1983, when you received nonjudicial punishment (NJP) for wrongful use of marijuana. About four months later, on 26 October 1983, you received NJP for assault.

On 16 August 1985 you received your third NJP for wrongful use of marijuana, absence from your appointed place of duty, and a seven day period of unauthorized absence (UA). The punishment imposed was restriction for 45 days, reduction to paygrade E-2, and a \$650 forfeiture of pay.

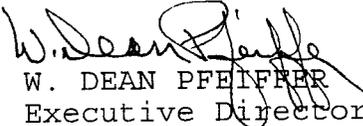
Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 16 September 1985 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug

abuse. This recommendation further stated, in part, that you were a demonstrated drug abuser whose work performance had deteriorated greatly, and that you were not amenable for treatment or continued Naval Service. On 20 September 1985 the discharge authority approved this recommendation, and on 30 September 1985 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct which resulted in three NJPs, two of which were for drug abuse. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time. Accordingly, your application has been denied.

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