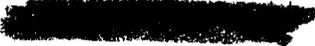




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMS
Docket No: 5930-08
26 February 2009



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 25 February 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 17 December 1982, you reenlisted in the Navy at age 24 after a prior period of honorable service. On 27 July 1983, you had nonjudicial punishment (NJP) for use of marijuana. You were also counseled regarding your misconduct, placed on the urinalysis surveillance program, advised to seek substance abuse assistance, and warned that further infractions could result in disciplinary action or an other than honorable discharge. On 26 August 1983, a substance abuse report stated that you completed a rehabilitation program and had good potential for further service. On 2 November 1984, you were counseled regarding deficiencies in your performance and conduct and were given another discharge warning. On 29 November 1984, you were apprehended by civilian authorities for driving under the influence of alcohol. On 6 December 1984, you returned to your command after being

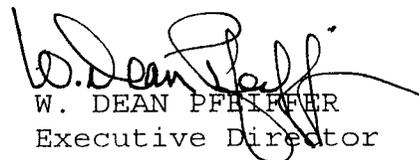
in an unauthorized absence (UA) status for about seven days. On 29 January 1985, you had NJP for the seven day period of UA and a violation of uniform regulations. On 8 April 1985, you were convicted by a special court-martial of use of cocaine. Your sentence included confinement, reduction in rank, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 7 January 1986, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, regret for your misconduct, substance abuse, and period of honorable service. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, substance abuse does not excuse 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.

The Board noted that as a result of your prior period of honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

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