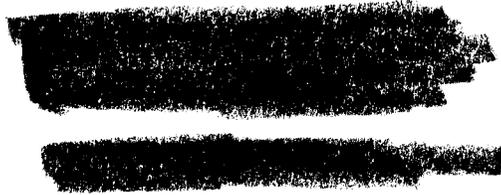




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMS
Docket No: 6138-08
19 March 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 18 March 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.

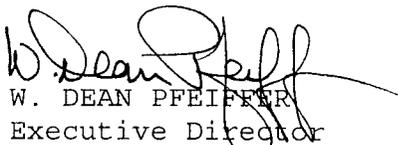
On 4 January 1984, you enlisted in the Navy at age 19. On 29 August 1984, you had nonjudicial punishment (NJP) for use of marijuana. On 29 August 1984, you were also counseled regarding your misconduct, informed where substance abuse assistance was available, and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 5 February 1985, you were counseled regarding absence from your appointed place of duty and unsatisfactory military appearance, and given another discharge warning. During the period 6 February to 26 November 1985, you had NJP on two occasions and were convicted by a summary court-martial. Your offenses included larceny, unlawful entry, loss of government property, and use of marijuana. Although a substance abuse report initially stated that you had excellent potential for further service after your first drug-related offense, on 10 December 1985, a subsequent substance abuse report stated that you had no potential for further service. However, it appears that separation action was not taken. You then served without incident until 18 August and 14 September 1987, when you had NJP for failure to go to your appointed place of duty, introduction and use of marijuana, and possession of drug paraphernalia.

Based on the information currently contained in the record, on 15 September 1987, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse and a pattern of misconduct. In connection with this processing, you would have acknowledged that separation could result in an OTH discharge and been given an opportunity to have your case heard by an administrative discharge board (ADB), but it appears that you waived that right. On 4 October 1987, the separation authority approved the recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 19 October 1987, you declined substance abuse treatment at a Veterans' Affairs facility. On 19 October 1987, you were separated with an OTH discharge by reason of misconduct due to a pattern of misconduct.

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. The Board also considered the letters of recommendation that you submitted with your application. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your service due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in an OTH discharge. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. 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