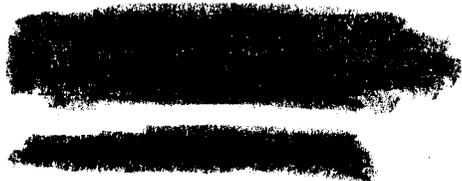




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 06284-08
1 May 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 28 April 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.

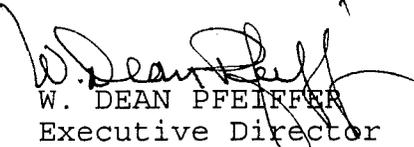
You enlisted in the Marine Corps on 28 July 1980 at age 18. On 19 January and 26 April 1982, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty, disobedience, and dereliction of duty. On 6 October 1983, you were convicted by summary court-martial (SCM) of possession and use of marijuana. You were sentenced to a reduction in paygrade and a forfeiture of pay.

On 31 October 1983, administrative discharge action was initiated by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 1 December 1983, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. On 5 December 1983 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service and contention of an unfair hearing and judgment. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your two NJP's, conviction by SCM, and the fact that you were counseled and warned concerning the consequences of further misconduct. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. With regard to your contention, the Board noted that based on the information currently contained in your record, on 6 October 1983, you were offered the right to consult with qualified counsel. However, you elected not to exercise that right. Therefore, there is no evidence in the record to support it, and you submitted no such evidence. 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