



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

SMS
Docket No: 6728-08
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.

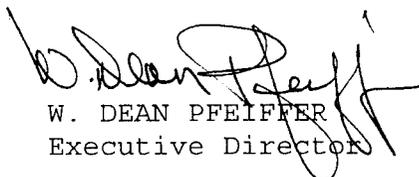
On 9 June 1978, you enlisted in the Navy at age 17 with parental consent. On 10 August 1978, you were authorized retention in the Navy after you disclosed pre-service drug use. On 12 September 1978, you were given a retention warning and informed that further misconduct may not only result in disciplinary action, but an other than honorable (OTH) discharge. On 12 September 1978, you had nonjudicial punishment for possession of marijuana. On 2 May 1979, you were convicted by a special court-martial of a 57 day period of unauthorized absence. You subsequently received substance abuse treatment for poly drug usage.

On 27 March 1980, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, you acknowledged that separation could result in an OTH discharge, waived the right to have your case heard by an administrative discharge board (ADB), and requested an early discharge. Your commanding officer subsequently recommended a general discharge. On 27 March 1980, you were separated with a general discharge by reason of misconduct due to drug abuse. The separation authority subsequently approved the discharge action with an effective date of 27 March 1980.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and desire for an honorable discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board also considered your contention that you did not use drugs until you enlisted in the Navy. The Board also noted that you waived the right to have your case heard by an ADB, which was your best opportunity for retention or a more favorable characterization of service. Regarding your contention, the record shows that you disclosed pre-service use of drugs after you enlisted and when you began receiving substance abuse treatment. Furthermore, the Board found that you were fortunate to have received a general discharge. 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