



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

TJR
Docket No: 7585-08
12 June 2009

[REDACTED]

Dear [REDACTED]

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 10 June 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 23 March 1982 at age 23 and served for nearly a year without disciplinary incident. However, on 14 February 1983, you received nonjudicial punishment (NJP) for wrongful possession of marijuana and were awarded a \$691.50 forfeiture of pay, restriction and extra duty for 30 days, and reduction to paygrade E-3, which was suspended for six months. On 17 June 1983 you received NJP for wrongful use of marijuana and were awarded restriction and extra duty for 30 days and a forfeiture of pay for two months. Also, on 20 June 1983, the suspended reduction in paygrade was vacated due to this continued misconduct.

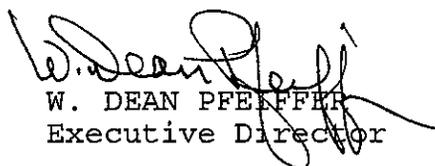
On 13 July 1983 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB).

On 15 July 1983 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 21 July 1983 the discharge authority approved this recommendation and on 25 July 1983 you were issued an other than honorable discharge by reason of misconduct due to drug abuse.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as youth and desire to upgrade your discharge. It also considered your assertion that your urine samples may have been compromised. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct. The Board concluded that you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Further, the Board concluded that your record contains documented evidence that is contrary to your assertion. 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