



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

SMS
Docket No: 8363-08
4 December 2008

[REDACTED]

[REDACTED]

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 3 December 2008. 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 5 March 1983, you reenlisted in the Navy at age 29 after three prior periods of honorable service. On 18 August 1983, your urinalysis tested positive for marijuana. On 8 September 1983, you had nonjudicial punishment (NJP) for disrespect and use of marijuana. On 22 September, 5 October, and 10 October 1983, your urinalyses tested positive for marijuana. On 14 October 1983, you had NJP for two instances of unauthorized absence (UA).

On 14 October 1983, 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 other than honorable (OTH) discharge, and elected the right to have your case heard by an administrative discharge board (ADB) as well as counsel. On 19 October 1983, your urinalysis tested positive for marijuana. On 10 November 1983, you began a period of UA. On 5 December 1983, while you were in a UA status, an ADB convened with your counsel present, found misconduct due to drug abuse and recommended an OTH discharge. On 11 January 1984, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse, and further authorized an immediate discharge without your return to military

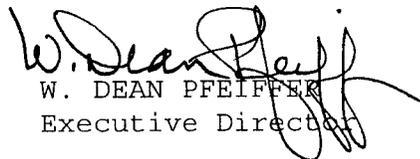
control. On 17 January 1984, while still in a UA status, you were separated with an OTH discharge by reason of misconduct due to drug abuse.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contentions that your urinalyses were erroneous and you were not given an opportunity to remain in the Navy. Nevertheless, the Board concluded that these factors and contentions were not sufficient to warrant recharacterization of your discharge due to the seriousness of your drug-related misconduct that continued even after you had NJP for use of marijuana. Further, the Board noted that although you elected the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service, you were not present when the ADB convened because you were in a UA status. 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 periods 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

Copy to:
The Honorable Bill Shuster