



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

BJG

Docket No: 10853-08

26 August 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 25 August 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 and medical records, and applicable statutes, regulations and policies.

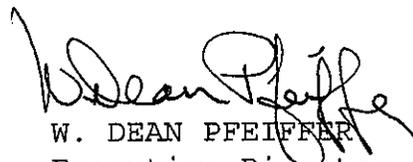
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board found that you entered active duty in the Navy on 15 August 1977. You received nonjudicial punishment (NJP) on eight occasions for seven instances of absence from duty muster, disobeying a lawful order from a petty officer, an unauthorized absence of about one day, wrongful possession of marijuana, hashish and drug paraphernalia, absence from your appointed place of duty, disrespect to a superior commissioned officer and two petty officers, and attempting to break restriction. On 7 January 1980, after four NJP's, you were warned that further misconduct could result in an administrative discharge.

On 2 April 1980, you were recommended for an other than honorable (OTH) discharge due to misconduct. You waived all of your rights, including the right to an administrative discharge board (ADB). The separation authority approved your commanding officer's recommendation. On 15 May 1980, you received the OTH discharge for a pattern of misconduct (frequent involvement of a discreditable nature with military authorities), and an RE-4 reenlistment code.

The Board, in its review of your entire record, carefully weighed all potential mitigation, such as your youth and current desire to improve your life. Nevertheless, the Board concluded that these factors were not sufficient to warrant changing your OTH discharge because of your numerous acts of misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. In view of the above, 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