



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

TJR
Docket No: 1733-09
11 January 2010

[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 5 January 2010. 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 Marine Corps on 8 July 1981 at age 17. You served without disciplinary incident until 5 May 1982, when you received nonjudicial punishment (NJP) for wrongful use of marijuana. The punishment imposed was correctional custody for 30 days and a \$500 forfeiture of pay. About five months later, on 15 October 1982, you were convicted by summary court-martial (SCM) of wrongful possession of marijuana and possession of alcoholic beverages as a minor. You were sentenced to a \$367 forfeiture of pay, confinement at hard labor for one month, and a reduction to paygrade E-1.

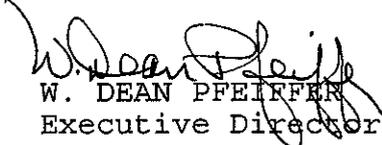
On 6 January 1983 your urine sample tested positive for marijuana. Shortly thereafter, on 11 February 1983, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you waived your right to present your case to an administrative discharge board (ADB). On 14 February 1983 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse.

On 28 February 1983 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to drug abuse, and on 16 March 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your request for the return of medals and uniforms. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your alcohol and drug related misconduct which resulted in an NJP and a SCM. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, Marines who are discharged under other than honorable conditions are not entitled to medals, awards, or retention of official military uniforms. 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