



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

REC
Docket No: 03056-09
2 February 2010

[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 26 January 2010. 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 and began a period of active duty on 29 July 1980, at age 19. On 10 December 1982, you were dropped from noncommissioned officer school for your poor attitude, lack of attendance, poor performance during class instruction and unsatisfactory behavior. On 2 August 1983, you were not recommended for advancement. On 20 October 1983, you were convicted for possession and use of speed by the Hiroshima District Court, Japan. You were found guilty and sentenced to one year imprisonment at forced labor; however, the sentence was suspended for three years. On 16 July 1984, administrative discharge action was initiated by reason of misconduct due to your civil conviction for possession and use of speed. You elected to have your case heard by an administrative discharge board (ADB), which voted four to zero in favor of an other than honorable discharge. Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 26 October 1984, you were convicted for importing marijuana by the Iwakuni District Court, Japan. You were found guilty and sentenced to one year and four months imprisonment at forced labor. On 18 December 1984, the

discharge authority directed an other than honorable discharge by reason of misconduct based on your civil convictions. On 3 March 1986, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reason or characterization of your discharge, given your record of two civil convictions. The Board also noted that you elected an ADB, which was your best opportunity for retention or a better characterization of service. 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