



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

TJR  
Docket No: 6762-10  
22 April 2011



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 19 April 2011. 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 18 November 1980 at age 19. You served without disciplinary infraction until 19 May 1981, when you refused to participate in a urinalysis. As a result, on 3 December 1981, you received nonjudicial punishment (NJP) for failure to obey a lawful order by refusing to produce a urine sample. The punishment imposed was extra duty and restriction for 30 days and a \$200 forfeiture of pay.

On 20 January 1982 you received NJP for a nine day period of unauthorized absence (UA) and were awarded a \$400 forfeiture of pay, restriction for 60 days, and reduction to paygrade E-1. On 22 January 1982 you were counselled regarding your involvement in a drug related incident, positive urinalysis for marijuana, participation in a urinalysis surveillance program and a drug rehabilitation course. At that time you were warned that any further drug involvement would result in disciplinary action and immediate administrative separation.

On 29 April 1982 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. Subsequently, you were offered and declined participation in a drug rehabilitation program. After consulting with legal counsel, you waived your right to present your case to an administrative discharge board (ADB). On 2 June 1982 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse as evidenced by your wrongful use of marijuana, cocaine, and amphetamines; and refusal to participate in a urinary surveillance program and a drug rehabilitation program. On 10 September 1982 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 17 September 1982, 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, post service conduct, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repeated drug related misconduct which resulted in two NJPs. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct or the passage of time. 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