



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

RDZ:ecb
Docket No. 01173-11
8 July 2011

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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 7 July 2011. 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.

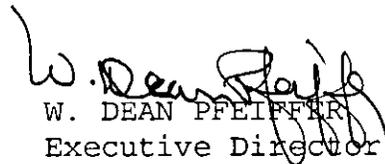
Your record shows that after you were granted a drug waiver for pre-service of marijuana on ten occasions you enlisted in the Marine Corps on 6 December 1999. Because you had received a drug waiver you were expressly warned that any further use of illegal drugs would result in either trial by court-martial or involuntary administrative separation. Unfortunately a little over 18 months after receiving this warning you received non-judicial punishment (NJP) for using marijuana and making a false official statement. Your record also shows that a little less than two months before this you received NJP for underage drinking and being drunk on duty. As a result of your illegal drug usage you were separated with an other than honorable discharge (OTH) after waiving your right to an administrative discharge board (ADB) where with the assistance of a military lawyer you could have requested retention or a better discharge.

In its review of your application the Board carefully considered all extenuating and mitigating factors such as the personal problems you had to deal while you were in the Marine Corps. Also taken in account was your post-service conduct. Nevertheless the Board concluded that these matters could not overcome the willful and serious nature of your misconduct even after you had been warned of the consequences of continued drug usage. Under these circumstances the Board believed that your discharge was proper as issued and should not be changed now as a matter of clemency.

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