



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 374-12
27 September 2012

[REDACTED]

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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 26 September 2012. 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.

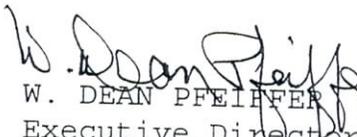
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 6 April 1970 at age 18. You received nonjudicial punishment (NJP) on two occasions for unauthorized absence (UA) from your unit for a period of 23 days and wrongful possession of marijuana. On 1 June 1973, you were apprehended by the Beaufort, South Carolina, County police and charged with wrongful possession of marijuana and possession with intent to sell marijuana. On 24 July 1973, you were convicted by special court-martial (SPCM) of wrongful possession of 632 grams of marijuana. The sentence imposed was confinement, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). You waived your right to be restored to duty. On 22 February 1973, you received the BCD after appellate review was complete.

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 recharacterization of your discharge due to seriousness of your misconduct that resulted in two NJPs, a SPCM and your civil criminal involvement with the wrongful possession and sale of a controlled substance. The Board also noted that you waived your right to restoration, your best opportunity to earn a better characterization of service. Finally, there is not provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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