



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

TJR
Docket No: 4128-12
14 March 2013

[REDACTED]

[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 12 March 2013. 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 Naval Reserve on 25 August 1977 at age 18 and immediately began a period of active duty. You served without disciplinary incident for about eight months. However, during the period from 14 April to 21 July 1978 you received nonjudicial punishment (NJP) on three occasions for disrespect, wrongful possession of marijuana, and two specifications of disobedience. The following year, during the period from 18 May to 13 December 1979, you received four more NJPs for two periods of unauthorized absence (UA) totalling five days, disrespect, drunk and disorderly conduct, wrongful possession of marijuana and alcoholic beverages, theft of property from your commanding officer, and assault.

On 11 and 15 January 1980 you received NJP for breaking restriction and disrespect. In February 1980 you were advised that administrative separation action had been initiated by reason of misconduct, but held in abeyance pending a medical evaluation for alcohol abuse. On 5 March 1980, following a medical evaluation, it was determined that you were responsible

for your behavior, returned to duty, and recommended for discharge by reason of misconduct. On 30 March 1980 the discharge authority directed the execution, within five days, of a general discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. However, on 1 April 1980, you began a period of UA that was not terminated until 8 June 1980. As a result of this continued misconduct, the discharge authority cancelled the 30 March 1980 separation under honorable conditions and directed your commanding officer to process you for discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and to include the pending charges of wrongful possession of controlled substances and the foregoing period of UA totalling 69 days.

On 2 July 1980 you were convicted by special court-martial (SPCM) of a 67 day period of UA. You were sentenced to confinement at hard labor for two months, a \$598 forfeiture of pay, and a bad conduct discharge (BCD). A portion of the sentence was suspended, in particular, the BCD by pre-trial agreement. On 24 November 1980 you received your tenth NJP for disobedience and were awarded restriction for 30 days.

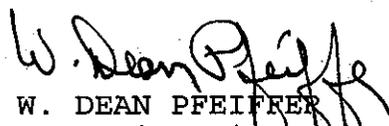
Subsequently, you were processed for an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After waiving your procedural rights, on 11 February 1981, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 24 February 1981, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your other than honorable discharge because of the seriousness of your repetitive misconduct which resulted in 10 NJPs and a SPCM, and included drug and alcohol abuse. Finally, the Board noted that your misconduct continued even after being awarded a BCD that was subsequently suspended. 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