



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

JRE

Docket No. 7709-12

13 December 2013

Dear [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 5 December 2013. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 5 August 2002, after obtaining a waiver of disqualifying pre-service drug abuse. The waiver was apparently required because of your admission of having used marijuana about 50 times prior to enlisting, and

a positive drug test on a urine specimen provided during your accession physical examination. You were discharged under other than honorable conditions on 22 December 2003 by reason of drug abuse based on your use of marijuana. Your final conduct mark average was 3.1, which is below the level which would have been required for an honorable discharge had you not been discharged by reason of misconduct.

The Board was not persuaded that there was any connection between the effects of undiagnosed posttraumatic stress disorder and your use of illegal drugs and your theft of the property of three fellow Marines. The Board rejected your characterization of those offenses as "minor infractions". It concluded that the nanogram level recorded in the report of a urinalysis dated 28 August 2003 does not indicate that your use of marijuana was "de minimus". In this regard, it noted that at some time after marijuana is used, x nanograms of THC metabolites will be present in the user's urine, and that that amount will diminish over time until the nanogram level falls below the cut-off level for a positive test result. Thus, the amount of THC metabolites found in a urine specimen does not indicate how much marijuana was used by the person being tested, or when the use took place. The Board also concluded that you failed to demonstrate that you were denied any substantial right during the nonjudicial punishment proceedings you underwent for the offense of larceny, the summary court-martial for wrongful use of marijuana, or the administrative separation processing by reason of misconduct/drug abuse. The Board did not consider your service apart from your drug abuse to be honorable, and concluded it would not be in the interest of justice for it to upgrade your discharge as a matter of clemency, notwithstanding the favorable aspects of your naval record and the extenuating and mitigating evidence you submitted in support of your application.

In view of the foregoing, your application has been denied. The names and votes of the panel members 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