



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 1130-99

24 June 1999

Dear [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 16 June 1999. 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.

The Board found that you enlisted in the Naval Reserve on 5 August 1965 for six years. You were called to active duty for two years on 4 August 1966 as an FA (E-2).

The record reflects that you served without incident until 26 October 1966 when you received nonjudicial punishment (NJP) for drinking on a liberty boat and bringing alcoholic beverages on board ship. You continued to serve without further incident until 19 April 1967 when you were informed by Naval Investigative Service agents that you were suspected of using narcotics. You made a voluntary statement that you had been using narcotics since the tenth grade and had smoked marijuana on numerous occasions, both prior to and during your enlistment. You also claimed that you had used lysergic acid diethylamide (LSD) about ten times and had several "bad trips."

On 27 April 1967, you were convicted by special court-martial of six periods of unauthorized absence totalling 32 days, unlawful use of a special liberty authorization, and breaking restriction.

You were sentenced to confinement at hard labor for three months, forfeitures of \$48 per month for three months, and reduction in rate to FR.

On 25 July 1967, you were notified that you were being recommended for an undesirable discharge by reason of unfitness due to unauthorized possession and use of marijuana and hallucinogens. You were advised of your procedural rights and waived your right to representation to counsel and presentation of your case to an administrative discharge board (ADB). On 9 August 1967, an enlisted performance evaluation board convened in the Bureau of Naval Personnel and recommended an undesirable discharge by reason of unfitness. The Chief of Naval Personnel approved the recommendation and directed an undesirable discharge by reason of unfitness due to drug addiction, habituation, or the unauthorized use of narcotics, hallucinogens, or other similar know habit-forming drugs.

You received a second NJP on 13 September 1967 for a 21 day period of UA, from 17 August to 8 September 1967. You received an undesirable discharge on 22 September 1967.

In its review of your application, the Board weighed all potentially mitigating factors such as your youth and immaturity, limited education, letters of reference attesting to your post-service achievements, recovery from drug addiction, and your work for the past 10 years as a drug abuse counselor in helping recovering addicts and alcoholics. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of two NJPs and a special court-martial conviction. While drug abuse may be considered a mitigating factor, it does not excuse misconduct. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. Your discharge was accomplished in compliance with applicable regulations and there is no indication of procedural errors which would have jeopardized your rights. A Federal Bureau of Investigation report obtained by the Board noted that your post-service conduct has been marred by convictions for attempted criminal drug activity and attempted grand theft of property. The Board concluded that the discharge was proper and no change is warranted. 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