



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2214-00

30 August 2000

[REDACTED]

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 23 August 2000. 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 Marine Corps on 27 August 1981 for four years at age 19. The record reflects during the 17 month period from February 1981 to April 1983 you received three nonjudicial punishments (NJP). Your offenses consisted of consuming alcohol in the barracks and two instances of drunk and disorderly conduct. During this period, you were also advanced to LCPL (E-3).

On 26 August 1983 you were referred for evaluation after you requested assistance for your alcohol problems. It was recommended that you be placed on antabuse, attend Alcoholics Anonymous meetings three times per week, and be entered into a formal treatment program for alcoholism. On 23 October 1983, you were admitted to an emergency room for an antabuse reaction. The emergency care treatment summary stated that you were pending inpatient treatment and were on antabuse, but had been "palming"

your medication for four days. You had ingested 20 beers and a pint of whiskey the previous evening. Antabuse treatment was to be resumed on the following evening, and you were to begin in-patient treatment as scheduled.

You were admitted to a level III in-patient alcohol abuse treatment program on 31 October 1983 and released from treatment on 3 November 1983 with diagnoses of alcoholism and poly-drug abuse. The aftercare plan noted the following:

"This patient was a mis-referral to ARD because of his multi-drug usage since age 15. He has used alcohol daily, marijuana daily since age 15, infrequent use of hallucinogens, amphetamines, daily use of cocaine for nearly the past three months (Aug-Oct 83) and other drugs including PCP. It is strongly recommended that (patient) be referred to the Naval Drug Rehabilitation Center for treatment as a drug addict."

You were admitted to the in-patient rehabilitation treatment program for drug abuse on 20 January 1984. An informal report on 23 April 1984 advised the commanding officer that you failed to successfully complete a formal drug rehabilitation course and recommended that you be processed for administrative separation.

On 24 April 1984 you were notified that a general discharge was being recommended by reason of drug abuse rehabilitation failure. You were advised of your procedural rights, declined to consult with legal counsel, and waived your right to submit a statement. Thereafter, the discharge authority directed a general discharge by reason of drug abuse rehabilitation failure. You were so discharged on 14 May 1984.

The record reflects that the Navy Discharge Review Board (NDRB) denied your request for upgrade of your discharge on 4 October 1994.

Regulations provide that individuals separated by reason of drug abuse rehabilitation failure receive the type of discharge warranted by the service record. Character of service is based, in part, on military conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your conduct and proficiency averages through May 1992 were 4.1 and 4.0, respectively. However, there is no record of any marks assigned for the last two years of your service. The minimum average marks required for a fully honorable characterization at the time your discharge were 4.0 in military behavior and 3.0 in proficiency.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, letters of reference attesting to your character and post-service achievements, course completion certificates and diplomas, and the fact that it has been nearly 16 years since you were discharged. The Board noted the issues you presented to the NDRB and your current contentions that you came from a dysfunctional family with alcoholic father who abused your mother, that you were 16 when they separated, and after a week of not seeing your father you went to his house and found him dead. You assert that after witnessing this terrible and horrific scene, you rebelled and began to drink alcohol and experiment with drugs. You noted that the Marine Corps enlisted knowing that you abused alcohol and drug prior to service.

The Board concluded that for foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs and your failure to successfully complete a drug rehabilitation program. The Board particularly noted that, for unknown reasons, your record has no conduct and proficiency marks for the last two years of your service. The Board believed that since you received two of the NJPs and your substance abuse escalated during this period, any marks assigned would have been sufficiently low to have brought your conduct average below the 4.0 average required for a fully honorable discharge. Further, characterization was not wholly determined by the mark averages. It appeared to the Board the Marine Corps gave you every consideration when it sent you not only to alcohol rehabilitation treatment, but also to drug rehabilitation treatment. The Board believed that given your misconduct prior to rehabilitation treatment, you were fortunate to not have been processed for separation under other than honorable conditions. Additionally, a Federal Bureau of Investigation report obtained by the Board indicates that your post-service conduct in the two years after your discharge was marred by a conviction for driving under the influence of alcohol/drugs. Although, it appeared to Board that since then you have made commendable efforts to turn your life around, the Board did not find your post-service achievements sufficiently mitigating to warrant recharacterizing your service. The Board thus 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