



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 2970-01  
19 October 2001

[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 16 October 2001. 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.

The Board found you reenlisted in the Navy on 21 August 1981 after nearly four years of prior honorable service. Your record reflects that on 7 January 1982 you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA) and possession of drug paraphernalia. The punishment imposed was a \$365 forfeiture of pay and restriction and extra duty for 30 days. On 20 June 1982 you received NJP for a two day period of UA and were awarded a \$400 forfeiture of pay and a suspended reduction in rate. Approximately three months later, on 14 September 1982, you received NJP for a day of UA. The punishment imposed was restriction for 15 days and a \$100 forfeiture of pay. On 29 December 1982 you received your fourth NJP for a three day period of UA and were awarded a \$318 forfeiture of pay, restriction for 15 days, and a suspended reduction in rate.

Your record further reflects that on 11 March 1983 you received NJP for wrongful use of marijuana and were awarded a reduction in rate, extra duty for 45 days, and a \$642 forfeiture of pay.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. You did submit a statement in rebuttal to the discharge in which you denied ever using any illegal drugs. On 20 April 1983 your commanding officer recommended you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. The recommendation noted, in part, as follows:

(Member) has shown himself to be a highly capable worker who generally produces good results. His strong professional performance, however, has been significantly marred by a history of NJPs. He has problems following rules and regulations.

In September 1982 he participated in a command directed urinalysis and his sample screen THC positive. In January 1983 he participated in a unit sweep, and when his sample was screened THC positive, he appeared at masts for wrongful use of marijuana. He has continually denied the use of any drugs. However, after three instances of drug abuse, it is obvious he cannot remain in the Navy. Recommend an other than honorable discharge by reason of misconduct due to drug abuse.

On 3 May 1983 the discharge authority directed an other than honorable discharge by reason of misconduct, and on 18 May 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you did not use drugs while serving in the Navy and you do not use drugs now. However, the Board noted that you submitted no evidence in support of this contention, and the record contains no such evidence. The Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive drug related misconduct which resulted in five NJPs, two of which were for drug related offenses. Given all the circumstances of your case, the Board concluded your discharge was proper as issued 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