



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

TJR
Docket No: 3029-01
26 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 23 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, and applicable statutes, regulations, and policies. The Board was unable to obtain your service record and conducted its review based on the decisional document prepared by the Naval Discharge Review Board.

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.

Your record contains a pre-enlistment certification in which you denied any pre-service use, possession, or experimentation with narcotics, dangerous drugs, or marijuana. You then enlisted in the Naval Reserve on 25 September 1981 at the age of 19, and began a three year period of active duty on 20 October 1981.

Your record reflects that on 13 December 1982 you received nonjudicial punishment (NJP) for wrongful possession of marijuana. The punishment imposed was a \$286 forfeiture of pay, restriction for 30 days, extra duty for 45 days, and a reduction to paygrade E-1. On 14 December 1982, after undergoing a medical evaluation, medical authorities determined that you were not drug dependent, but recommended you for Level II rehabilitation treatment.

On 6 January 1983 you received NJP for two periods of unauthorized absence (UA) totalling 10 days and failure to go to from your appointed place of duty. The punishment imposed was correctional custody for 30 days. On 12 January 1983 you received NJP for wrongful possession of marijuana and were awarded correctional custody for seven days.

Subsequently, on 28 February 1983, 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. On 10 March 1983 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse/use. On 15 March 1983 the discharge authority approved the foregoing recommendation and directed an other than honorable discharge by reason of misconduct due to drug abuse/use. On 19 March 1983 you received your fourth NJP for two specifications of wrongful use of marijuana and drunk and disorderly conduct. The punishment imposed was a \$286 forfeiture of pay and restriction and extra duty for 45 days. Shortly thereafter, on 31 March 1983, you were issued an other than honorable discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and post service conduct. The Board also considered your contentions that your pre-service drug and alcohol abuse should have precluded your entry into the Navy and you received no rehabilitation while in the Navy. However, 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 and alcohol related misconduct which resulted in four NJPs. In regards to your contentions, your record indicates that you denied any pre-service drug abuse. Further, Level II treatment was made available to you, but you either declined treatment or elected to continue using drugs after receiving such treatment. 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