



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

TJR
Docket No: 4449-01
30 November 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 27 November 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 enlisted in the Naval Reserve on 17 August 1984 at the age of 20. Your record reflects that on 12 June 1985 you received nonjudicial punishment (NJP) for two specifications of assault, communicating a threat, and disorderly conduct. The punishment imposed was a \$75 forfeiture of pay and restriction and extra duty for 10 days. You were then counselled concerning your deficiencies and warned that further misconduct could result in administrative separation. Six months later, on 18 December 1985, you received NJP for two periods of unauthorized absence (UA) totalling four days, absence from your appointed place of duty, and possession of marijuana. The punishment imposed was a \$716 forfeiture of pay, restriction and extra duty for 45 days, and reduction to paygrade E-2.

Your record further reflects that on 4 February 1986 you were convicted by summary court-martial (SCM) of absence from your appointed place of duty, breaking restriction, and wrongful use of marijuana. You were sentenced to a \$225 forfeiture of pay, confinement at hard labor for 27 days, and a reduction to paygrade E-1.

On 26 February 1986 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense and drug abuse. At that time you waived your rights to consult with legal counsel and to present a statement in rebuttal to the discharge. On 3 March 1986 your commanding officer recommended you be administratively separated by reason of misconduct due to a pattern of misconduct, commission of a serious offense, and drug abuse. Subsequently, the discharge authority directed an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 31 March 1986 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 and the contention that you were never counselled. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your frequent disciplinary infractions, especially your repetitive drug related misconduct, which resulted in two NJPs and a court-martial conviction. Concerning your contention, the record reflects that you were appropriately counselled. 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