



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

ELP
Docket No. 6772-01
11 February 2002

[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 Navy Records, sitting in executive session, considered your application on 6 February 2002. 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.

Your enlisted in the Marine Corps on 7 January 1981 for four years at age 19. The record reflects that you were advanced to LCPL (E-3) and served without incident until 21 October 1982, when you were formally counseled regarding two counts of driving under the influence of alcohol and advised that your base driving privileges were suspended for one year. You served without further incident until 8 January 1983 when you were counseled again regarding misconduct of a discreditable nature with civil authorities and unsatisfactory performance. You were warned that failure to take corrective action could result in administrative separation under other than honorable conditions.

On 25 January 1983 you received nonjudicial punishment (NJP) for for two instances of failure to go to your appointed place of duty and sleeping on post. Thereafter, a Navy drug laboratory

reported that a urine sample you submitted on 11 February 1983 had tested positive for marijuana. You were subsequently placed on the command screening program. On 16 March 1983 you received a second NJP for use of marijuana and a brief period of unauthorized absence.

On 22 March 1983 the commanding officer recommended separation under other than honorable conditions by reason of misconduct due to a pattern of misconduct. On 31 March 1983, the staff judge advocate (SJA) advised the discharge authority that you had consulted with legal counsel and waived your procedural rights. The SJA found that your case was sufficient in law and fact. On 1 April 1983 the discharge authority directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The record reflects you were removed from the command screening program incident to your discharge. During the two months you were in this program, you submitted eight urine samples. The first six samples were positive for marijuana, the seventh was negative, and the results on the eighth sample were still pending upon your removal from the program. You were discharged under other than honorable conditions on 19 April 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, good post-service conduct, letters of reference, your regret for the actions that led to your discharge, and the fact that it has been nearly 19 years since you were discharged. The Board noted your contentions that you had turned your life around, have not used alcohol or drugs for more than ten years, and an upgraded discharge would guarantee you a better job. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of formal counseling on at least two occasions and two NJPs, one for illegal drug use. The Board noted the aggravating factor that you continued to use drugs while you were in the command screening program, thus demonstrating a willful disregard for military authority and the Marine Corps drug policy. Your post-service achievements and desire for better employment opportunities do not provide a valid basis for recharacterizing service. The Board concluded that the discharge was proper and no changes were 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