



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

TJR  
Docket No: 7729-01  
13 May 2002

[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 7 May 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 5 October 1979 at the age of 18. Your record reflects that you served for a year and three months without disciplinary incident but on 6 January 1981 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and disobedience. The punishment imposed was restriction and extra duty for 30 days, reduction to paygrade E-1, and a \$500 forfeiture of pay. On 6 March 1981 you received NJP for disobedience and were awarded restriction and extra duty for 45 days and a \$100 forfeiture of pay. About two months later, on 7 May 1981, you received your third NJP for six specifications of wrongful use and possession of marijuana. The punishment imposed was confinement at hard labor for 30 days and a \$334 forfeiture of pay.

On 25 June 1981 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian

authorities. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 23 July 1982, on the advice of your legal counsel, you waived your right to an ADB conditioned upon a recommendation for a general discharge. On 26 August 1981 your commanding officer recommended you for a general discharge by reason of misconduct.

However, on 31 August 1981, this recommendation was denied by the discharge authority and your commanding officer was directed to reprocess you for an other than honorable discharge. On 24 September 1981 you were again notified of an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. At that time you waived your rights to consult with legal counsel and to present your case to an ADB. On 29 September 1981 your commanding officer recommended an other than honorable discharge by reason of misconduct. This recommendation noted, in part, as follows:

Member has exhibited a consistent disregard for military authority.... he has repeatedly violated Navy marijuana regulations, violated command orders, and orders from his superiors, and failure to go to his appointed place of duty. Counselling of this individual, at all levels concerning the ramifications of such behavior within the Navy, including its international implications, has proven fruitless.

On 12 December 1981 the discharge authority approved the foregoing recommendation and directed an other than honorable discharge, and on 29 December 1981 you were so discharged.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and your contention that your discharge should be upgraded because there was a lack of evidence against you. However, the Board found these factors and contention were not sufficient to warrant recharacterization of your discharge given your repetitive misconduct, which included drug abuse. Given all the circumstances of your case, the Board concluded your 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