



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

TJR
Docket No: 9883-10
24 June 2011



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 21 June 2011. The names and votes of the members of the panel will be furnished upon request. 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.

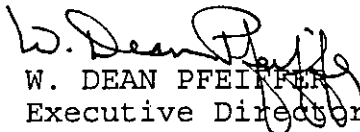
You enlisted in the Navy on 3 November 1976 at age 19. You served without disciplinary incident until 9 March 1978, when you were convicted by special court-martial (SPCM) of 16 specifications of failure to obey a lawful order involving selling, transferring, possession, and use of controlled substances. You were sentenced to reduction to paygrade E-1 and a bad conduct discharge (BCD). The BCD was suspended for a year under the condition that it would be automatically vacated if any further misconduct occurred. Nonetheless, on 6 July 1978, you received nonjudicial punishment (NJP) for four specifications of wrongful possession and use of marijuana, three periods of absence from your appointed place of duty, disrespect, being in a restricted area, and disobedience. Shortly thereafter, on 11 July 1978, the BCD awarded at the 9 March 1978 SPCM was vacated. Subsequently the BCD was approved at all levels of review and on 15 January 1979 you were so discharged. However, you were erroneously issued a Certificate of Release or Discharge from Active Duty (DD Form 214) which reflected a "dishonorable" characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your repetitive drug related misconduct. Accordingly, your application has been denied.

In regard to your erroneously issued DD Form 214, you may wish to contact the Department of the Navy, Navy Personnel Command (BUPERS), Code Pers-312, 5720 Integrity Drive, Millington, TN 38055-3120, to request the issuance, if warranted, of a DD Form 215 with the correct characterization of service.

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