



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

ELP
Docket No. 2630-99
7 September 1999



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 1 September 1999. 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.

The Board found that you reenlisted in the Navy on 25 December 1980 for four years as an AD3 (E-4). At the time of your reenlistment, you had completed more than three years of prior active service.

The record reflects that in November 1979, during your prior enlistment, you received a nonjudicial punishment (NJP) for use and possession of marijuana. The record further reflects that you then served without incident until 15 September 1983 when you received NJP again for use of marijuana. Punishment imposed consisted of a reduction in rate to ADAN (E-3) and forfeitures of \$381.15 per month for two months.

On 19 September 1983 you were notified that you were being processed for administrative separation by reason of misconduct due to drug abuse. Thereafter, you were advised of your procedural rights. After consulting with counsel, you elected to

waive your rights to representation by counsel and presentation of your case to an administrative discharge board (ADB).

On 30 September 1983, a substance abuse report was submitted indicating that you admitted to recreational use of marijuana since 1976, and were well aware of the Navy's policy on drug abuse, but disagreed with it. You were deemed to have no potential for further service due to your attitude. On the same date, the commanding officer (CO) recommended your discharge under other than honorable conditions by reason of misconduct due to drug abuse. In his recommendation, he noted that you had admitted at NJP that you had been using marijuana "for a long time", and the CO further stated that there had been a dramatic decline in your performance over the past year. He stated that your lack of discipline and poor performance were a drain on morale and hindered the mission of the command.

On 8 October 1983, the Commander, Naval Military Personnel Command directed discharge under other than honorable conditions by reason of misconduct due to drug abuse. You were so discharged on 19 October 1983.

On 10 April 1984 the Naval Discharge Review Board (NDRB) denied your request for upgrade of your discharge.

In its review of your application the Board concluded a careful search of your service record for any mitigating factors which might warrant a recharacterization of your second period of service. However, no justification for such a change could be found. The Board noted the issues you presented to the NDRB in April 1984 and your contentions that the other than honorable discharge constituted excessive punishment for an isolated incident with less than a year remaining on your enlistment. The Board concluded that your contentions were insufficient to warrant recharacterization of your discharge given your continued use of marijuana. Your contention that the discharge was based on an isolated incident appears to be without merit since the evidence of record indicates that you received NJP for two drug offenses during your career. You were certainly aware of the consequences if caught using drug and your second NJP for use of illegal drugs demonstrated a willful disregard for the Navy's drug policy and discipline. Your admission to the commanding officer of recreational use and disagreement with the Navy's drug policy left him little choice but to recommend your discharge. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that 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