



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

CRS  
Docket No: 1183-02  
12 July 2002

[REDACTED]

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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 10 July 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.

The Board found that you enlisted in the Navy on 12 March 1982 at age 19. The record reflects that you received four nonjudicial punishments. The offenses included an unauthorized absence of 72 days, use of a controlled substance, assault, absence from your appointed place of duty on three occasions, and use of marijuana.

On 27 February 1984, administrative separation action was initiated by reason of misconduct due to drug abuse. On 4 March 1984 you stated that you were a user of multiple drugs, and would continue to use marijuana on your own time. On 17 May 1984 you became an unauthorized absentee after previously waiving the right to present your case to an administrative discharge board.

On 5 June 1984 the commanding officer recommended that you be separated with an other than honorable discharge by reason of misconduct due to drug abuse. Further, he stated that you were not amenable to drug rehabilitation or treatment. After review by the discharge authority, the recommendation for separation was approved and you were discharged in absentia on 19 June 1984 with

an other than honorable discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your good postservice conduct and the contentions that you did not receive due process by means of a court-martial and should have received drug rehabilitation. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given your repetitive drug use. In this regard, it is clear from the record that you were unwilling to comply with Navy standards on drug use. Although the record does not reflect any formal drug rehabilitation, you were retained after your first drug related offense. After the second offense the commanding officer properly concluded that you were not a suitable candidate for rehabilitation, given your four nonjudicial punishments. Further, since all of the nonjudicial punishments were imposed when you were attached to USS MACDONOUGH (DDG 39), you had no right to elect trial by court-martial in lieu of nonjudicial punishment. Further, you waived the right to present your case to an administrative discharge board. Therefore, the Board concluded that no change to the discharge 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

Copy to: Mr. John B. Luke