



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

WMP

Docket No: 2585-02
19 August 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 of the 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 14 August 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 1 May 1980 for four years at age 17. On 11 March 1983 you were counseled concerning your positive random urinalysis result for marijuana and warned concerning the consequences of further misconduct. You were placed in a rehabilitation screening program until 21 April 1983 and assigned to the Navy Drug Safety Action Program (NDSAP) course on 14 March 1983, which you successfully completed on 21 March 1983.

On 30 March 1983, you received nonjudicial punishment (NJP) for wrongful use of marijuana on or about 7 February 1983, based on the foregoing urinalysis. The punishment imposed was an oral admonition, a forfeiture of \$352 per month for two months, and reduction to paygrade E-2. Additionally, you were awarded 45

days of extra duty, however, this punishment was suspended for six months.

On 21 December 1983 you received NJP for wrongful use of marijuana on or about 18 October 1983. The punishment imposed was a forfeiture of \$321, reduction to paygrade E-2, and 14 days of restriction.

On 21 December 1983, you were evaluated to determine whether you were dependent on alcohol or drugs. As a result of this evaluation you were found not to be alcohol or drug dependent.

On 28 December 1983, you were notified that separation action was being initiated by reason of misconduct due to drug abuse. You were advised of your procedural rights and exercised your rights to consult with counsel, obtain copies of documents supporting the basis for your proposed separation, and to submit verbal or written statements.

On 8 January 1984, you provided a written statement contending "that it would be very unfair to receive an other than honorable discharge under the circumstances that I have served three years and nine months in the United States Navy." You additionally contended that your second positive urinalysis was not accurate, however, you could not that you did not use marijuana.

On 19 January 1984 your commanding officer forwarded the separation action, recommending an other than honorable discharge due to misconduct, to the Commander, Naval Military Personnel Command (CNMPC). On 8 February 1984 CNMPC directed an other than honorable discharge by reason of misconduct due to drug abuse. On 16 February 1984, you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your age and immaturity and the fact that you completed nearly three years of service without incident. The Board also noted your contention that you did not receive any rehabilitation. However, the Board concluded that the record fully supported your processing for separation by reason of misconduct due to drug abuse as evidenced by your two NJP's that resulted from two positive urinalysis tests for marijuana. Additionally, the Board found that your other than honorable discharge was appropriate, based

on your NJP's for drug abuse. The Board also noted that you completed NDSAP, which was the appropriate level of rehabilitation for an individual who was not drug dependent. 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