



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

WMP
Docket No: 0022-02
20 May 2002

[REDACTED]

[REDACTED]

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 15 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 19 December 1974 after more than two years of prior active service. The record reflects that you served without incident until 19 September 1975 when you received nonjudicial punishment for assault. The punishment imposed was forfeitures of \$150 per month for two months.

Your record further reflects that on 12 August 1976 you were convicted by a special court-martial of possession, sale, and transfer of marijuana; and possession, sale, and transfer of PCP. You were sentenced to confinement at hard labor for six months, forfeiture of \$240 per month for six months, reduction in rate to the lowest enlisted grade, and a bad conduct discharge. On 2 September 1976, the convening authority approved that part of the sentence extending to confinement at hard labor for 60 days,

forfeiture of \$240 per month for two months, reduction in rate to FR (E-1) and a bad conduct discharge.

On 30 September 1976 you were released from confinement and placed on appellate leave pending the review of your bad conduct discharge. On 26 May 1977, upon completion of appellate review, execution of the bad conduct discharge was directed and, on 13 June 1977, you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your that you have matured and your admission of wrongdoing. However, the Board concluded that your conviction for possession, sale and transfer of both marijuana and PCP warranted severe punishment, which the court-martial correctly imposed. The Board concluded that your special court-martial and subsequent bad conduct discharge were appropriate and should not be upgraded to honorable. 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