



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

FC
Docket No: 02598-03
29 August 2003

[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 27 August 2003. 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 Marine Corps on 13 April 1983 after 21 months of prior active service. On 23 August 1983, you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded a forfeiture of pay and extra duty. Portions of the punishment were suspended.

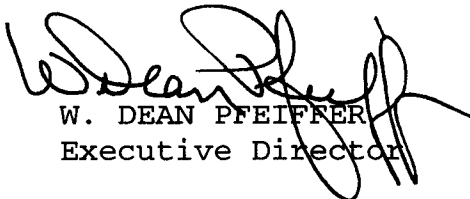
On 12 March 1984, you tested positive for marijuana on a random urinalysis test. On 3 May 1984, you signed a service record entry acknowledging that you would be placed on four-week urinalysis surveillance program. On 14 September 1984, you received a second NJP for use of marijuana, and were awarded a reduction to paygrade E-2 and a forfeiture of pay. On 20 September 1984, you were counseled concerning your deficiencies in conduct. On 20 November 1984 you received a third NJP for failure to go to your appointed place of duty at the prescribed time.

On 3 December 1984, you were notified of administrative separation processing and you waived all of your procedural rights including the right to present your case to an administrative discharge board (ADB). On that same day, the commanding officer recommended an administrative separation by reason of a pattern of misconduct. On 12 December 1984, the staff judge advocate concurred with the commanding officer's recommendation and, on that same day, the separation authority directed an other than honorable discharge by reason of a pattern of misconduct. On 8 January 1985, you were so discharged.

In its review of your case, the Board carefully weighed all potentially mitigating factors such as the length of time that has passed since you were discharged from the Marine Corps, your prior period of honorable service, and your contention that you were going through a divorce at the time of your misconduct. However, the Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your frequent misconduct that resulted in three NJPs for offenses that included drug use and counseling for deficiencies in behavior. The Board also noted the previous positive urinalysis test for marijuana for which you did not receive disciplinary action. Finally, the Board noted you elected to waive the right to an ADB, your best opportunity for a better characterization of service. 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