



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

TRG

Docket No: 3492-03
29 October 2003

[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 28 October 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.

You enlisted in the Marine Corps on 26 May 1981. On 14 December 1981 you received nonjudicial punishment (NJP) for possession of marijuana and paraphernalia in the barracks. You then served for almost 18 months without incident.

On 24 June 1983, you received another NJP for disobedience and two instances of drug use. It appears on the NJP record that the drug use was discovered by urinalyses which occurred on 29 March and 12 May 1983.

Based on the foregoing record, you were processed for an administrative discharge. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board. After review, the discharge authority directed discharge under other than honorable conditions and you were so discharged on 20 September 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and contentions that you have never used marijuana and that the urinalyses that resulted in your discharge were illegal. You

also contend, in effect, that the dates of the last two urinalyses should be 25 and 31 May 1983, and since those urinalyses occurred only six days apart, they cannot be used to show two separate instances of drug use.

The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge. The Board noted that there is no evidence in the record, and you have submitted none, to indicate that the urinalyses were improperly conducted or that the dates for the urinalyses entered on the NJP record are in error. Additionally, you did not contest the discharge by requesting an administrative discharge board and the discharge package was reviewed by a staff judge advocate and was found to be sufficient in law and fact. Finally, even if the last two urinalyses showed only a single instance of drug use, this still would have been your second drug related misconduct during your enlistment. The Board concluded that the discharge was proper as issued 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