



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 7903-98

7 May 1999

[REDACTED]

Dear [REDACTED]

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 4 May 1999. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you reenlisted in the Marine Corps on 29 June 1981 after about three years of prior active service. Shortly thereafter, on 19 July and again on 19 August 1981, you were apprehended by civil authorities for speeding, driving under the influence (DUI), and possession of marijuana. On 2 September 1981 you received nonjudicial punishment (NJP) for possession of marijuana. The punishment imposed was reduction to paygrade E-3 and forfeitures of pay. The forfeitures were suspended for six months.

On 7 and 23 October 1981 you were apprehended by civil authorities for two incidents of driving with a revoked license, two incidents of running a stop sign, and DUI. On 11 November 1981 you received NJP for assault and drunk and disorderly conduct. The punishment imposed was reduction to paygrade E-2, which was suspended for six months.

Your record reflects that on 9 January 1982 you were apprehended by civil authorities for driving with a revoked license and DUI. Shortly thereafter, you were notified that administrative separation action had been initiated to issue you a general discharge by reason of unsuitability. At this time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 18 January 1982 your commanding officer recommended you be issued a general discharge by reason of unsuitability. However, on 29 January 1982 you were again apprehended by civil authorities for use of marijuana. On 11 February 1982 you received your third NJP for use of marijuana. The punishment imposed was restriction for 60 days, vacation of the 11 November 1981 suspension, and reduction to paygrade E-1.

Your record also reflects that you were then notified of pending administrative separation action by reason of misconduct due frequent involvement of a discreditable nature with military and civilian authorities. Again you waived your rights to consult with legal counsel and to present your case to an ADB. On 12 February 1982 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. Subsequently, on 21 April 1982, the discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge. On 4 May 1982 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, prior honorable service, good post service conduct, and your contention that you would like your discharge upgraded and your narrative reason for separation changed. The Board further considered your contention that your ability to served was impaired by your aptitude scores, level of education, alcohol and drug use, and general military problems. The Board also considered your contentions that your command abused its authority, you were not afforded legal counsel or any significant drug and/or alcohol treatment, and that the punishment you received was too harsh. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your narrative reason for separation given the seriousness of your drug and alcohol related misconduct in both the military and civilian communities, especially your three NJPs. The Board further noted that your misconduct continued even after you were recommended for a general discharge, and that you waived your rights to counsel and an ADB on two occasions. Finally, the Board noted that there is no evidence in your record, and you submitted none, to support any of your contentions. Given all

the circumstances of your case the Board concluded your discharge and narrative reason for separation were 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