



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

ELP
Docket No. 4953-99
5 November 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 3 November 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 30 September 1981 for six years at age 19. On 6 January 1982 you were ordered to active duty for a period of 36 months in the Active Mariner Program.

The record reflects that you were advanced to ASMAN (E-3) and served without incident for more than 15 months. However, during the 13 month period from May 1983 to June 1984 you received three nonjudicial punishments (NJP) for absence from your appointed place of duty, a three day period of unauthorized absence, disobedience of an order, and wrongful use of marijuana. After to the first NJP, you were formally counseled regarding your conduct and declining performance and warned that failure to take corrective action could result in administrative separation.

You were screened by a medical officer for drug dependency on 24 June 1984, and determined to not be drug dependent. On 28 June 1984 you were notified that you were being recommended

for discharge under other than honorable conditions by reason of misconduct due to drug abuse. You were advised of your procedural rights and waived your right to representation by counsel and presentation of your case to an administrative discharge board (ADB). However, you did submit a statement in your own behalf explaining why you joined the Navy and why you wanted to be separated with a general discharge rather than under other than honorable conditions. Thereafter, the commanding officer recommended that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. In his recommendation he stated that you had become an administrative and disciplinary burden to the command, and had no potential for further useful military service. He also noted that your performance had steadily deteriorated and you had become progressively less cooperative with your superiors. On 7 July 1984, Commander, Naval Military Personnel Command directed discharge under other than honorable conditions by reason of misconduct due to drug abuse. You were so discharged on 9 July 1984.

The Naval Discharge Review Board denied your request for recharacterization of discharge on 26 May 1998.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your low test scores, good post-service conduct, and the fact that it has been more than 15 years since you were discharge. The Board specifically noted the letters of reference which attest to your diligence as a parent, steady employment, and volunteer service to your community despite your son's leukemia and your wife's death in an automobile accident. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of three NJPs, one of which was for the use of drugs. The Board noted the aggravating factor that you waived your right to an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. While your volunteer work within your community and courage in dealing with personal family tragedies are notable, the Board found that neither overcame your military misconduct. The Board concluded that the discharge was proper 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