



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

CRS
Docket No: 4632-01
16 January 2002

[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 15 January 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.

The Board found that you enlisted in the Navy on 21 November 1983 at age 18. The record reflects that you received three nonjudicial punishments. The offenses included being incapacitated for duty, absence from your appointed place of duty, failure to obey a lawful order, and possession and use of marijuana on two occasions.

On 14 November 1985 the commanding officer recommended that you be separated with an other than honorable discharge by reason of misconduct due to commission of a serious offense and drug abuse. When informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. Subsequently, on 20 December 1985 a medical evaluation board found that you had HIV and Crohn's disease that were in remission. After review by the discharge authority, the recommendation for separation was approved and you were discharged with an other than honorable discharge by reason of misconduct due to drug abuse.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the contention that you were not given proper counseling during the discharge process. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given your repeated involvement with drugs. In this regard, there is no evidence, and you have presented none, that you were not properly counseled. 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