



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

JRE
Docket No. 00684-06
2 April 2007



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 29 March 2007. 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 were discharged from the Marine Corps on 1 February 1988, with a bad conduct discharge, pursuant to the approved sentence of a special court-martial which convicted you of wrongful use of marijuana. On 9 September 2006, the Department of Veterans Affairs (VA) determined that your service was dishonorable for VA purposes, based on the aforementioned conviction by court-martial, and the two instances of nonjudicial punishment you received during your enlistment.

The Board was not persuaded that you suffered from any physical conditions or mental disorders at the time of your discharge that rendered you unfit for service by reason of physical disability. It found that even if you had been unfit for duty at that time, you would not have been entitled to disability separation or retirement, because your bad conduct discharge would have taken precedence over and precluded disability processing. Your contention to the effect that you were not accorded substance abuse rehabilitation services was considered and found insufficient to excuse your acts of misconduct, or to warrant any corrective action in your case. 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