



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

TRG
Docket No: 2224-07
2 May 2009

[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 29 April 2008. 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 reenlisted in the Navy on 22 February 1985 with over nine years of active duty on prior enlistments. Subsequently, you received nonjudicial punishment on two occasions for unauthorized absence and disrespect. Despite your disciplinary record, you were promoted to chief petty officer on 1 April 1986.

A special court-martial convened on 18 July 1986, found you guilty of wrongful use of marijuana, and sentenced you to a bad conduct discharge. After completion of appellate review, the bad conduct discharge was issued on 30 July 1987.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your lengthy period of good service, the isolated nature of your offense, and your contention that the punishment was too severe. The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your conviction by a special court-martial of use of drugs while serving as a chief petty officer. Since you were expected to lead by example and betrayed the trust placed in you, the Board believed that the issuance of a bad conduct discharge in your case was not too severe. 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.

The Board believes that you may be eligible for veterans' benefits based on your prior honorable service. Therefore, if you have been denied benefits, you should appeal that denial under procedures established by the Department of Veterans Affairs.

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