



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

TJR
Docket No: 3856-07
20 February 2008

[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 20 February 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 31 January 2001 at age 20. A year and three months later, on 1 April 2002, you submitted a written statement regarding your drug use prior to enlistment, and in-service drug use while serving in Rota, Spain. Your record contains an administrative remarks entry dated 11 April 2002 which states, in part, that you were diagnosed as drug dependent, recommended for participation in a drug rehabilitation program, and strongly opposed treatment. On 11 June 2002 you received nonjudicial punishment (NJP) for wrongful use of hashish and ecstasy. The punishment imposed was reduction to paygrade E-1, restriction and extra duty for 45 days, and a forfeiture of pay.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 24 June 2002 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. This recommendation stated, in part, as follows:

(Member) admitted to the illegal use of hashish and ecstasy on multiple occasions.... received NJP.... not keeping with Navy's policy of 'zero tolerance' of drug abuse.... due to his extensive drug abuse, I feel he has no potential for further service.

The discharge authority approved the foregoing recommendation and directed discharge under other than honorable conditions by reason of drug abuse, and on 2 July 2002 you were so discharged. At that time you were assigned an RE-4 reenlistment code.

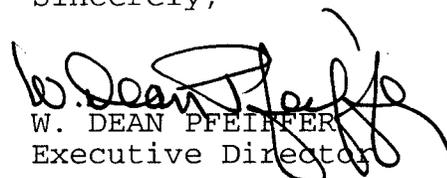
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to change your ~~reenlistment code so that you may reenlist in the armed forces.~~ Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct and refusal to participate in a rehabilitation program. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Accordingly, your application has been denied.

The Board also noted that you are entitled to submit the attached Application for the Review of Discharge or Dismissal from the Armed Forces of the United States (DD Form 293) to the Naval Council of Personnel Boards, attention: Naval Discharge Review Board, 720 Kennon Street, S. E., Room 309, Washington Navy Yard, Washington, DC 20374-5023 for consideration of an upgrade of your discharge and a change in your narrative reason for discharge.

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