



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

SJN
Docket No: 06246-07
1 May 2008



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 25 May 1988 at age 20. On 9 February 1989, you received nonjudicial punishment (NJP) for wrongful use of marijuana.

On 23 February 1989, you were notified of pending administrative separation action for misconduct due to drug abuse. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 27 March 1989, an ADB found that you did commit misconduct due to drug abuse, but recommended that you be retained on active duty. However, on 12 April 1989, your commanding officer forwarded your case to the separating authority recommending that you be separated for misconduct due to drug abuse with a general discharge. On 23 May 1989, the discharge authority directed a general discharge by reason of misconduct due to drug abuse. On 24 May 1989 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and the stated reason why you used marijuana. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your NJP for drug abuse. The Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is discharged for misconduct. 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,



ROBERT D. ZSALMAN
Acting Executive Director