



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

TJR
Docket No: 7923-07
10 September 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 9 September 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 6 April 1987 at age 34. You served without disciplinary incident for one year and one month. However, during the period from 5 May to 9 June 1988, you received nonjudicial punishment (NJP) on four occasions for two periods of unauthorized absence (UA) totalling six days, failure to obey a lawful order, and wrongful use of cocaine.

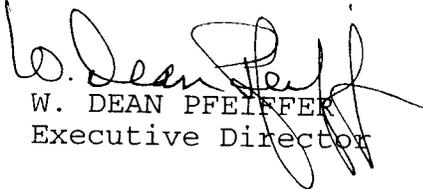
On 15 June 1988 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On 15 July 1988 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 22 July 1988 the discharge authority approved this recommendation and directed discharge by reason of misconduct due to drug abuse, and on 1 August 1988 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge. It also considered your assertion of a service-connected injury. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you provided none, to support your assertion of a service-connected injury. 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