



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

TJR
Docket No: 8114-07
8 October 2005

[REDACTED]

[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 7 October 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 19 February 1980 at age 21 and served without disciplinary incident until 3 July 1985, when you received nonjudicial punishment (NJP) for wrongful use of marijuana and were awarded a \$600 forfeiture of pay, restriction and extra duty for 45 days, and reduction to paygrade E-4.

Your record contains an administrative remarks entry dated 26 June 1986 in which you were identified as a drug and alcohol abuser, and were offered rehabilitation. It also states, in part, that because of your failure to comply with rehabilitation and assume responsibility for your drug and alcohol problems, rehabilitation was unsuccessful. On 16 July 1986 you again received NJP for wrongful use of marijuana. The punishment imposed was restriction and extra duty for 45 days, a \$300 forfeiture of pay, and reduction to paygrade E-3.

Subsequently, on 7 August 1986, 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 2 September 1986 your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 19 September 1986 the discharge authority approved this recommendation, and on 26 September 1986, 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 and assertion that you let personal problems cloud your judgment. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your drug related misconduct which resulted in two NJPs. Finally, you were given an opportunity to defend yourself, but waived your procedural rights to present your case to an ADB. 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