



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

TRG
Docket No: 9487-07
26 June 2008



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 17 June 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 enlisted in the Navy on 28 May 1984 at age 21. During the period from 2 May 1985 to 18 September 1985, you received nonjudicial punishment on five occasions. Your offenses were two instances of drug abuse and three instances of failure to go to your appointed place of duty. Following the first incident of drug abuse you were processed for an administrative discharge. As indicated you then received a another NJP for use of drugs. Subsequently an administrative discharge board found that you had committed misconduct due to drug abuse and recommended discharge under other than honorable conditions. After review, the discharge authority directed discharge under other than honorable conditions and you were so discharged on 11 December 1985.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and the fact that you have had an adverse discharge for more than 22 years. You contend that you have been a good citizen for many years and were told that your discharge would be automatically upgraded after six months. The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your record of misconduct and especially your two instances of drug abuse. It is clear that you were on notice that drug abuse would not be tolerated but used drugs

anyway. Further, there is no provision in the law or regulations which require the recharacterization of a discharge based solely on the passage of a period of time. Since you have been treated no differently than other drug abusers, 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.

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