



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

SMW
Docket No: 10172-07
9 July 2008

[REDACTED]

[REDACTED]

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 2 July 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.

On 17 December 1981, you reenlisted in the Navy at age 21. On 8 February 1982, a substance abuse evaluation found that you were dependent on mood altering chemicals. On 14 February 1982, you had nonjudicial punishment (NJP) for two instances of drunk and disorderly conduct and attempting to cause bodily injury to yourself. On 1 March 1982, you were counseled regarding your urinalysis that tested positive for amphetamines and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. During March 1982, you began substance abuse rehabilitation. On 14 and 23 April 1982, you had NJP for a day of unauthorized absence (UA), possession of an identification card with intent to deceive, and wrongful use of reproachful words. On 27 April 1982, you began a period of UA. On 10 May 1982, you were dropped from substance abuse rehabilitation due to your continued use of drugs.

On 28 May 1982, your 31 day period of UA ended. On 25 and 26 July 1982, you were in a UA status.

On 10 August 1982, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, you acknowledged that separation could result in an OTH discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 26 August 1982, you were convicted by a special court-martial of three periods of UA that totaled about 31 days. On 11 September 1982, the separation authority approved the discharge recommendation and directed a general discharge by reason of misconduct due to drug abuse. On 20 October 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and prior periods of honorable service. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. You are advised that there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Therefore, 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