



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

TJR
Docket No: 11351-07
19 November 2008



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 18 November 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 29 July 1979 at age 18 and served without disciplinary incident until 2 July 1981, when you received nonjudicial punishment (NJP) for wrongful possession of marijuana and were awarded restriction and extra duty for 45 days, a \$500 forfeiture of pay, and a reduction in paygrade.

On 5 May 1983 you received NJP for wrongful use of marijuana. The punishment imposed was restriction and extra duty for 30 days and a \$700 forfeiture of pay. On 9 May 1983 you were counselled regarding deficiencies in your performance and conduct. You were advised that any further deficiencies could result in disciplinary action and an administrative separation. On 25 May 1983 your commanding officer submitted a substance abuse message to the discharge authority which stated in part that your urine sample tested positive, you were awarded NJP, and that you had limited potential for continued service.

On 2 June 1983 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 17 June 1983 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 21 June 1983 your commanding officer, in concurrence with the ADB, also recommended an other than honorable discharge by reason of misconduct due to drug abuse. On 24 June 1983 1985 the discharge authority approved these recommendations, and on 27 June 1983 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, post service conduct, and assertion that you no longer use drugs. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct which resulted in two NJPs. Finally, there is no evidence in the record, and you submitted none, to support your assertion of being drug free. 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