



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

SJN
Docket No: 00118-08
19 December 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 17 December 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 and began a period of active duty on 19 June 1986 at age 19. You served for over two years without incident until 2 March 1989, when you received nonjudicial punishment (NJP) for drunk driving and being drunk on duty. On 6 March 1989, you were counseled and warned that further misconduct could result in administrative discharge action. However, on 26 September 1989, you were convicted by special court-martial (SPCM) of wrongful distribution of cocaine. You were sentenced to confinement, a forfeiture of pay, and a reduction in paygrade.

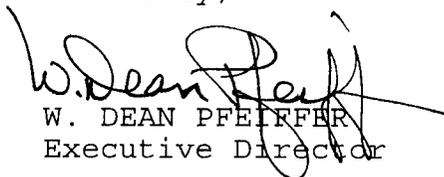
On 4 December 1989, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. You waived your right to consult with counsel, submit a statement or have your case heard by an administrative discharge board (ADB).

On 22 January 1990, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 2 February 1990, the discharge authority directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 21 February 1990 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of one NJP and conviction by SPCM for drug distribution. Further, you were counseled and warned concerning the consequences of further misconduct and waived the right to an ADB, your best chance for retention or a better characterization of service. 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