



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

TJR
Docket No: 2054-08
13 January 2009

[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 13 January 2009. The names and votes of the members of the panel will be furnished upon request. 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 10 March 1981 at age 19 and began a period of active duty on 26 March 1981. During the period from 10 December 1981 to 21 June 1982 you received nonjudicial punishment (NJP) on three occasions and were convicted by summary court-martial (SCM). Your offenses were failure to obey a lawful order, three specifications of wrongful possession and use of cocaine, wrongful use of marijuana, and failure to go to your appointed place of duty.

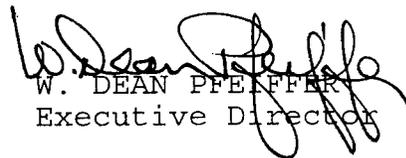
On 8 July 1982 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). However, you did submit a written statement of requesting immediate execution of your discharge.

On 10 August 1982 your commanding officer recommended an other than honorable discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and drug abuse. On 12 August 1982 the discharge authority approved this recommendation, and on 20 August 1982, 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 desire to upgrade your discharge. It also considered your assertion that procedural problems existed during the time you were tested for drug usage. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in three NJPs, SCM, and included wrongful use of marijuana and cocaine. Further, the Board noted you had no desire to continue serving in the Navy. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Accordingly, your application has been denied.

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 PFEFFER
Executive Director