



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

CRS
Docket No: 3505-08
29 September 2009

[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 September 2009. 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.

The Board found that you reenlisted in the Navy on 21 November 1988 after more than 13 years of prior active service. On 20 March 1994 the results of the urinalysis of a specimen you had submitted on or about 7 March 1994 were reported as positive for the presence of cocaine. On 23 April 1994, you were convicted by civil authorities of driving while intoxicated, and sentenced to probation for six months and 50 hours of community service.

On 12 October 1994 you appeared before an administrative discharge board convened to consider whether to separate you from the Navy by reason of misconduct due to drug abuse, commission of a serious offense, and/or a civilian conviction for driving while intoxicated, or by reason of alcohol rehabilitation failure. The ADB found that the recommended bases for separation were substantiated, and recommended that you be discharged by reason of misconduct with a discharge under other than honorable conditions. The recommendation was approved by the separation authority, and you were discharged by reason of misconduct, commission of a serious offense, on 18 January 1995, with a

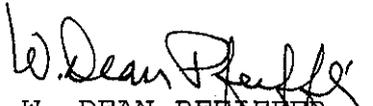
discharge under other than honorable conditions. At that time you were reduced to in grade to ATAN (E-3) and assigned a reentry code of RE-4 in accordance with governing directives.

In its review of your application, the Board considered all potentially mitigating factors, such as your completion of 20 years of active duty service. It concluded, however, that the positive aspects of your service were outweighed by your misconduct, drug and alcohol abuse, and conviction by civil authorities. The Board did not accept your unsubstantiated contentions to the effect that you did not ingest cocaine, and that you did not know, and were not advised, of your right to request transfer to the Fleet Reserve in lieu of separation by reason of misconduct.

In view of the foregoing, and as a reentry code of RE-4 is required when an individual is discharged by reason of misconduct, and you have been treated no differently than others in your situation, the Board concluded that it would not be in the interest of justice to assign a more favorable reentry code as an exception to policy. 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