



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

SMS
Docket No: 4928-08
20 February 2009



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 19 February 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.

On 7 August 1981, you reenlisted in the Navy at age 27 after two prior periods of honorable service in the Navy. On 25 April 1983, you had nonjudicial punishment (NJP) for use of marijuana. You were also counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 16 May 1983, a medical evaluation stated that you chronically abused marijuana. On 2 June 1983, you had NJP for disrespect and two instances of willful disobedience of a lawful order. On 6 June 1983, you received a substance abuse evaluation that found that you were psychologically dependent on marijuana, but were not amenable to treatment because you wanted to continue using marijuana.

On 7 June 1983, 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 28 June 1983, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 8 July 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your prior periods of honorable service, and desire for a better discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your misconduct. 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.

The Board noted that as a result of your prior periods of honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

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