



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

TJR
Docket No: 5240-08
19 March 2009



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 17 March 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 27 November 1984 at age 17 and began a period of active duty on 17 July 1985. You served without disciplinary incident until 31 October 1986, when you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. A year later, on 4 September 1987, you received NJP for absence from your appointed place of duty and wrongful possession of cocaine. On 4 February 1988 you received your third NJP for absence from your appointed place of duty and wrongful use of cocaine. The punishment imposed was restriction and extra duty for 45 days, reduction to paygrade E-1, and a \$670 forfeiture of pay.

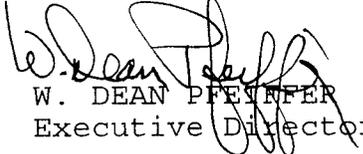
Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. You waived your right to consult with legal counsel and to present your case to an

administrative discharge board (ADB). On 1 March 1988 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse as evidenced by your wrongful possession and use of cocaine. On 2 March 1988 you began a period of unauthorized absence (UA) that was not terminated under 17 March 1988. However, the record does not reflect the disciplinary action taken for this period of UA totalling 15 days. Nonetheless, while in the foregoing UA status, the discharge authority approved the discharge recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 18 March 1988, 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, desire to upgrade your discharge, the explanations regarding your drug use and discharge, and the passage of time. It also considered your assertions of double jeopardy, not being afforded drug rehabilitation, and the Navy failing you because your drug usage was not identified until after you were addicted. The Board further considered your request for a veterans' medical identification card so that you may obtain veterans' benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Further, you were given an opportunity to defend yourself and possibly obtain a better characterization of service, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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 PFEIFFER
Executive Director