



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

TJR  
Docket No: 5402-08  
8 April 2009

[REDACTED]

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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 7 April 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 1 February 1984 after three years of prior honorable service. You continued to serve without disciplinary incident until 1 August 1985, when you were convicted by summary court-martial (SCM) of three periods of unauthorized absence (UA) totalling 38 days, absence from your appointed place of duty, and two specifications of wrongful use of marijuana. You were sentenced to a \$548 forfeiture of pay, reduction to paygrade E-3, and confinement for 30 days.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. On 15 August 1985, after consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 25 September 1985 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 1 November 1985 your commanding officer also recommended an other than honorable discharge by reason of misconduct due to drug abuse. This recommendation also stated, in part, that you were aware of the Navy's "Zero Tolerance"

policy, had tested positive for marijuana use on two occasions, were afforded the opportunity to rehabilitate yourself but stated a period of UA, and that you were incapable of carrying out your duties. On 16 November 1985 the discharge authority approved these recommendations, and on 23 November 1985 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of prior honorable service, post service conduct, and desire to upgrade your discharge. It further considered your assertion that your other than honorable discharge does not accurately reflect the overall character of your Naval Service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct which resulted in SCM. 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