



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

SJN
Docket No: 06774-08
8 May 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 5 May 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 26 January 1979 at age 19. On 24 January 1981, you received nonjudicial punishment (NJP) for disobedience. On 15 September 1982, you were convicted by general court-martial (GCM) of three specifications of attempting to sell, possessing, and transferring cocaine. You were sentenced to confinement at hard labor, a forfeiture of pay, a reduction in paygrade, and a bad conduct discharge (BCD). You received the BCD after appellate review was completed. At that time, you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, the character letters accompanying your application, post service achievements, and statement from the American Legion dated 15 August 2008. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge, changing the reason for your discharge or a change in the reenlistment code, which was

based on your disciplinary record. In this regard, an RE-4 reenlistment code is required when an individual is discharge due to misconduct. 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