



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

SJN
Docket No: 06952-08
21 May 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 13 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 29 June 1982 at age 18. On 28 September 1982 and 17 May 1983, you received nonjudicial punishments (NJP) for disobedience, drunkenness, and wrongful appropriation. On 9 April 1984, you were convicted by special court-martial (SPCM) of failure to go to your appointed place of duty and two specifications of distribution of marijuana onboard ship.

On 14 May 1984, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB).

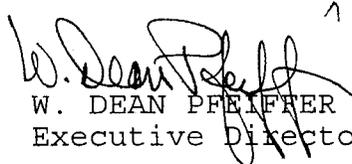
On 11 July 1984, an ADB unanimously found that you had committed misconduct due to drug abuse, and recommended retention. However, your commanding officer (CO) did not concur with the ADB's recommendation and on 19 July 1984, forwarded his recommendation that you be separated with an other than honorable discharge.

On 5 October 1984, you received a third NJP for possession of alcohol inside the transient personnel unit, possession of drug paraphernalia, possession and use of cocaine, and use of marijuana. On 9 October 1984, the separation authority, unaware of your last NJP, directed that it would be in the best interest of the Navy to separate you with a general discharge. However, on 10 October 1984, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an ADB. On 15 October 1984, your CO forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 21 October 1984, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. You were so discharged on 30 October 1984.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, the character letter accompanying your application, and post service accomplishments. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in three NJP's one of which was for drug use and conviction by SPCM for drug use. 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