



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

TJR
Docket No: 7538-08
12 June 2009

Dear [REDACTED]

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 9 June 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 5 October 1981 at age 28 and began a period of active duty on 5 November 1981. You served without disciplinary incident until 18 February 1983, when you were convicted by special court-martial (SPCM) of wrongful appropriation and were sentenced to restriction for 45 days and a \$500 forfeiture of pay.

On 3 August and again on 21 November 1984, you received nonjudicial punishment (NJP) for wrongful use of marijuana, absence from your appointed place of duty, and falsifying a muster report.

On 28 November 1984 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). However, on 30 November

1984, you submitted a written request for a general discharge and an explanation regarding your disciplinary infractions. On 7 December 1984 your commanding officer recommended an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 24 January 1985 the discharge authority approved this recommendation, and on 31 January 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 youth, post service conduct, and the passage of time. It also considered your assertions that you were not advised as to the consequences of receiving an other than honorable discharge and that such a discharge should not affect the rest of your life. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in two NJPs and a court-martial conviction, and included drug abuse. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time or an individual's good post service conduct. 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