



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

SMS
Docket No: 7886-08
8 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 6 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 27 October 1987, you enlisted in the Navy at age 21 and served without incident until June 1989, when you self-referred for cocaine abuse and were placed on the urinalysis surveillance program. On 23 June 1989, your urinalysis tested positive for cocaine. On 3 July 1989, a substance abuse evaluation stated that you had excellent potential for further service and recommended substance abuse treatment. On 7 and 12 July 1989, your urinalyses tested positive for cocaine. On 12 July 1989, you had nonjudicial punishment (NJP) for failure to go to your appointed place of duty and a three day period of unauthorized absence (UA). On 12 July 1989, you were also counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 20 July 1989, your urinalysis again tested positive for cocaine. On 16 August 1989, you began a period of UA that ended the following day. On 23 August 1989, suspended punishment from the NJP dated 12 July 1989, was vacated and you had another NJP for failure to go to your appointed place of duty and a day of UA. On 31 August 1989, a medical evaluation recommended separation and substance abuse treatment at a Veterans Affairs facility for your dependency. On 3 October 1989, you began a UA that ended on

17 October 1989. On 9 November 1989, you had NJP for the 14 day period of UA. On 1 February 1990, you were convicted by a special court-martial for use of cocaine and marijuana on or about 3 November 1989.

On 6 April 1990, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct and drug abuse. In connection with this processing, you acknowledged that separation could result in an OTH discharge and elected to have your case heard by an administrative discharge board (ADB). On 23 April 1990, an ADB convened and found that you were guilty of misconduct due to a pattern of misconduct and drug abuse, and the majority of the ADB recommended an OTH discharge. On 2 May 1990, the separation authority approved the recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 30 May 1990, you declined residential substance abuse treatment at a Veterans Affairs facility before discharge. On 4 June 1990, you were separated with an OTH discharge by reason of misconduct due to a pattern of misconduct.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contention that your misconduct was due to a drug addiction and you were never offered any help. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in an OTH discharge. Regarding your contentions, the record does show that you were drug dependent, but that does not excuse misconduct. Furthermore, the record shows that you did receive substance abuse assistance and were offered residential substance abuse treatment, but you declined it. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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