



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

TJR
Docket No: 8862-08
20 July 2009

[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 14 July 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 16 November 1984 at age 21 and began a period of active duty on 26 December 1984. You served for nearly a year without disciplinary incident, but on 4 December 1985, you received nonjudicial punishment (NJP) for a seven day period of unauthorized absence (UA). The punishment imposed was restriction and extra duty for 20 days, a \$200 forfeiture of pay, and a reduction in rate. The forfeitures and reduction in rate were suspended for six months. However, on 8 January 1986, this suspended punishment was vacated due to your continued misconduct. Also on 8 January 1986 you received NJP for wrongful use of cocaine and were awarded restriction and extra duty for 45 days, reduction to paygrade E-1, and a \$716 forfeiture of pay.

On 24 February 1986 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 21 March 1986 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 28 March 1986 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to drug abuse, and on 7 April 1986, 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, the passage of time, and your desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your other than honorable discharge because of the seriousness of your misconduct which 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 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