



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

TJR  
Docket No: 9401-08  
30 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 28 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.

Prior to your enlistment in the Marine Corps, you were evaluated and granted an enlistment waiver for experimental drug usage in July 1983.

You enlisted in the Marine Corps on 28 April 1986 at age 19 and began a period of active duty on 19 August 1986. You served for three years without disciplinary incident but on 19 May 1989, you received nonjudicial punishment (NJP) for wrongful use of marijuana and cocaine. The punishment imposed was restriction and extra duty for 45 days and a reduction to paygrade E-2. About a month later, on 21 June 1989, your urine sample tested positive for marijuana and cocaine. Although there was no evidence of drug dependency, you were recommended for Level II rehabilitation.

On 22 May 1989 you were notified of pending administrative separation by reason of misconduct due to drug abuse. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On 19 June 1989 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 10 July 1989 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 18 August 1989, 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 and desire to upgrade your discharge. It also considered your assertion that you never smoked marijuana. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Further, you were given an opportunity to defend yourself and possibly obtain a better characterization of service, but waived your procedural right to present your case to an ADB. Finally, there is documented evidence in the record which is contrary to your assertion that you did not use marijuana. 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