



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

TJR  
Docket No: 9538-08  
18 August 2009

[REDACTED]

[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 18 August 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 18 December 1980 at age 21. You served without disciplinary incident until 28 January 1983, when you received nonjudicial punishment (NJP) for wrongful use of cocaine. The punishment imposed was extra duty and restriction for 45 days, reduction to paygrade E-3, and a \$700 forfeiture of pay.

As a result of the foregoing, 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). Subsequently, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. 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 4 April 1983, you were so discharged.

On 29 August 1990 the Naval Discharge Review Board (NDRB) reviewed and denied your request for recharacterization of your discharge. However, the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, brief period of service without disciplinary incident, post service conduct, desire to upgrade your discharge, and the passage of time. It also considered your assertion that the NDRB misinterpreted the facts in your record. 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, but waived your procedural right to present your case to an ADB. Finally, the Board noted the typographical error made by the NDRB on the date of your NJP, but concluded that such an error was administrative in nature and does not change the overall facts of the offense. In other words, you received NJP for wrongful use of cocaine. 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