



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

SJN
Docket No: 00102-09
23 September 2010



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 21 September 2010. 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 and began a period of active duty on 28 July 1981. The Board found that around 8 September 1981, you were the subject of an investigation involving pre-service drug abuse. You admitted to the use of controlled substances prior to your arrival at recruit training. It was recommended that you be retained on active duty and warned that further misconduct of drug use could result in administrative discharge action. On 17 June 1983, a substance abuse report stated, in part, that after a self-referral, you admitted to abusing cocaine. It was determined that you were dependent on cocaine, BUT amenable and eligible for rehabilitation. At that time, you were found to be motivated, hard working, and had good potential for continued service. Your command thought you could become a productive member upon completion of drug rehabilitation. However, on 4 September 1984, you received nonjudicial punishment (NJP) for disobedience and possessing another service member's military identification card. On 8 November 1984, as a result of a command directed urinalysis, you tested positive for marijuana, amphetamines, and methamphetamines. Subsequently, administrative discharge action was initiated by reason of misconduct due to

commission of a serious offense. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 14 January 1985, you received a second NJP for two days of unauthorized absence, two instances of absence from your appointed place of duty, possession of drug paraphernalia, signing an official record which was false, and drunk and disorderly conduct. Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. The discharge authority concurred and directed an OTH discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 1 February 1985.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the fact that you were counseled and warned of the consequences of further misconduct and drug involvement, the assistance provided to you by your chain of command and drug rehabilitation center, and the two NJP's, one of which was for possessing drug paraphernalia. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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