



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

SJN
Docket No: 00898-09
4 November 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 3 November 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 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 29 December 1980 at age 22. On 10 November 1983, you received nonjudicial punishments (NJP) for five instances of absence from your appointed place of duty and wrongful possession and use of marijuana.

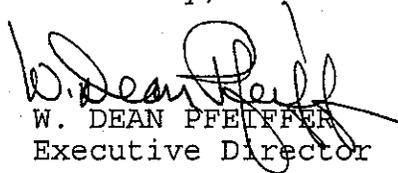
On 21 November 1983, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You elected to consult counsel and have your case heard before an administrative discharge board (ADB).

On 7 December 1983, the ADB unanimously recommended separation with an other than honorable discharge by reason of misconduct due to drug abuse. On 21 December 1983, your commanding officer concurred with the ADB's findings and forwarded his recommendation that you be discharged. On 28 December 1983, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. You were so discharged the same day.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and contention that the urine sample was not handled properly. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in NJP for drug use. Concerning your contention that your urine sample was not properly handled, there is no evidence in the record to support it, and you submitted no such evidence. 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