



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

SJN
Docket No: 01014-09
20 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 17 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 5 January 1989 at age 27. On 15 November 1989, you received nonjudicial punishment (NJP) for wrongful use of cocaine. You received restriction, extra duty, a reduction in paygrade, and a forfeiture of pay.

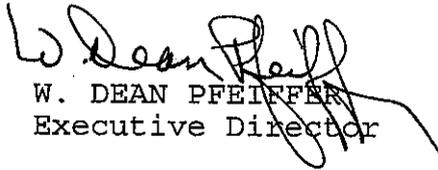
On 21 November 1989, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You elected to consult counsel and have your case heard before an administrative discharge board (ADB).

On 13 December 1989, the ADB recommended a general discharge by reason of misconduct due to drug abuse. On 5 January 1990, your commanding officer forwarded your case and concurred with the ADB's findings of misconduct, but recommended an other than honorable discharge. On 5 February 1990, the discharge authority directed a general discharge by reason of misconduct due to drug abuse. On 16 February 1990 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your period of service, Exodus Homes letters, the character letter accompanying your application, and post service drug and alcohol problems. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the NJP involving drugs. Finally, the Board noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is separated for misconduct. 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

Copy to:

NC Div of Veterans Affairs