



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

TJR
Docket No: 1436-09
23 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 21 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.

You reenlisted in the Navy on 11 October 1991 after nearly six years of prior honorable service. You continued to serve without disciplinary incident until 12 June 1992, when you received nonjudicial punishment (NJP) for obstruction of justice and were awarded a reduction to paygrade E-3, which was suspended for six months. However, on 18 November 1992, you received NJP for wrongful use of marijuana. The punishment imposed was restriction for 60 days, reduction to paygrade E-2, and a \$880 forfeiture of pay.

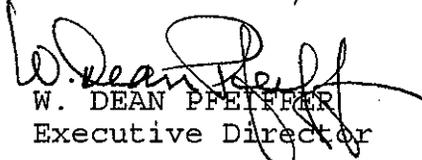
On 19 November 1992 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB).

On 3 December 1992 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 11 December 1992 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 22 December 1992, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and your desire to upgrade your discharge and change your reenlistment code so that you may reenlist in the Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your reenlistment code because of the seriousness of your misconduct which resulted in two NJPs and included drug abuse. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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