



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

TJR
Docket No: 2289-09
17 February 2010

[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 3 February 2010. 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 28 June 1979 at age 17 and began a period of active duty on 28 August 1979. You served without disciplinary incident until 18 August 1980, when you received nonjudicial punishment (NJP) for wrongful possession of marijuana and three periods of failure to go to your appointed place of duty.

On 10 March 1982 you were convicted by civil authorities of possession of marijuana and fined \$100. About a month later, on 14 April 1982, you were convicted by special court-martial (SPCM) of three specifications of wrongful possession of marijuana and two specifications of wrongful appropriation of property valued at \$1,060. You were sentenced to reduction to paygrade E-1, a \$900 forfeiture of pay, and hard labor and restriction for three months. On 24 May 1982 you received NJP for absence from your appointed place of duty and wrongful possession of marijuana. The punishment imposed was a \$678 forfeiture of pay, reduction to paygrade E-2, and restriction and extra duty for 45 days.

On 2 August 1982 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 August 1982 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. Subsequently, on 22 August 1982, 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 3 September 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge so that you may obtain veterans' benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct in both the military and civil communities. 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