



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

SJN  
Docket No: 02598-09  
4 November 2009

[REDACTED]

[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 May 1984 at age 22. On 17 July 1984, you received nonjudicial punishment (NJP) for wrongful use of cocaine. You received a reduction in paygrade and a forfeiture of pay.

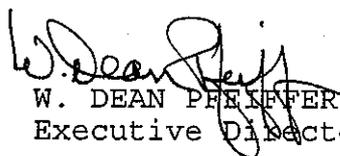
On 25 July 1984, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 6 September 1984, you received a second NJP for larceny. You received a forfeiture of pay and restriction.

On 7 September 1984, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 4 October 1984, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. You were so discharged on 15 October 1984.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and belief that your characterization of service would be upgraded after two years. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in two NJP's, one of which was for drug use. Further, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, you are advised that there is no provision in law or Navy regulations that allow for recharacterization of service automatically after two years or due solely to the passage of time. 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