



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

REC
Docket No: 03125-09
16 April 2010

[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 14 April 2010. 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 and began a period of active duty on 16 December 1983. During the period from 30 April 1986 to 15 November 1990, you received two nonjudicial punishments (NJP's) for the following offenses: drunk and disorderly, being too incapacitated for the proper performance of duty, and the wrongful use of a controlled substance, cocaine. After your first NJP, you were counseled and warned that further misconduct could result in administrative separation.

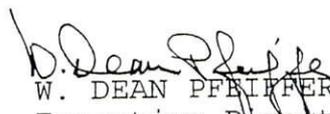
On 31 December 1988, administrative discharge action was initiated by reason of misconduct. Your case was heard by an administrative discharge board (ADB), which voted three to zero in favor of an under other than honorable discharge, however it recommended that the OTH discharge be suspended for 12 months. Your commanding officer concurred with the ADB's recommendation with the exception of the suspension, and forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct for drug abuse. On 11 April 1991, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reason or characterization of your discharge given your record of two NJP's, and the fact that you were counseled and warned of the consequences of further misconduct. An RE-4 reenlistment code is required when an individual is discharged due to misconduct such as drug abuse. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that under current regulations you may be eligible for veterans' benefits which accrued during your first period of service. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of the DVA concerning your eligibility to apply for benefits.

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