



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

CRS
Docket No: 5015-09
26 October 2009

[REDACTED]

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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 16 September 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy Reserve on 1 June 1982. On 3 December 1982 you had a positive urinalysis for marijuana. You received nonjudicial punishment on 14 January 1983 for wrongful use of marijuana. On 25 January 1983 a second urinalysis test was positive for marijuana.

On 21 March 1983 an administrative discharge board (ADB) found that you wrongfully used marijuana on one occasion. The ADB recommended your retention based in part on their belief that the positive results of the second urinalysis could have resulted from the previous use that was substantiated by the urinalysis conducted on 3 December 1982. On 22 June 1983 your commanding officer disagreed with the decision of the ADB and recommended that you be separated with a discharge under other than honorable conditions by reason of misconduct due to drug abuse. The Secretary of the Navy approved the recommendation and on 6 October 1983 you were separated by reason of misconduct with a discharge under other than honorable conditions.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your youth and overall service, as well as your contention that the second urinalysis was a false positive. The Board concluded that those factors are insufficient to warrant recharacterization of your service, since you offered no evidence that the second urinalysis was invalid with the exception of the ADB's decision that was later overturned by the Secretary of the Navy. In addition, a discharge under other than honorable conditions may be based on a single instance of wrongful use of marijuana. 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