



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

JRE
Docket No. 05838-09
11 December 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 10 December 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 that you enlisted in the Navy on 21 March 1994 at age 31. It appears that your enlistment was fraudulent, in that you concealed your long history of cocaine abuse which began at age 18, an arrest for possession of cocaine, a history of in-patient drug rehabilitation treatment. You completed a Report of Medical History on 12 December 1994 in which you denied having a history of frequent trouble sleeping, depression or excessive worry and nervous trouble of any sort. You underwent a pre-separation physical examination on that date and were found qualified for separation. You were convicted by special court-martial on 6 February 1995 of two periods of unauthorized absence and wrongful use of a controlled substance.

You were sentenced to be confined for ninety day, to forfeit %500.00 pay per month for three months, and to be separated from the service with a bad conduct discharge. You were so discharged on 1 February 1996, upon the completion of the appellate review of your conviction and sentence.

The Board did not accept your contention to the effect that your wrongful use of cocaine is attributable to the effects of posttraumatic stress disorder. As indicated above, you had a long history of cocaine abuse which you concealed in order to procure your enlistment, and there is no credible evidence that your in-service use of cocaine was related to your alleged posttraumatic stress disorder. The Board was not persuaded that it would be in the interest of justice for it to recommend that your bad conduct discharge be upgraded to general or honorable. 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 PREIFFER
Executive Director