



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

REC
Docket No: 06975-09
26 May 2010



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 26 May 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 on 5 July 1985. Between 6 April and 28 April 1989, you received two nonjudicial punishments (NJP's) for the illegal use of cocaine, being in an unauthorized absence (UA) status, having possession of a stolen armed forces identification card, breaking restriction and making a false statement. On 9 May 1989, administrative separation action was initiated by reason of misconduct for drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. The discharge authority directed an other than honorable discharge by reason of misconduct for drug abuse. On 30 May 1989, you were so discharged. At that time you were assigned an appropriate 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 recharacterization of your discharge, given your record of two NJP's for drug abuse and misconduct. The Board noted that you waived your rights to an ADB, your best opportunity for retention or a more favorable characterization of service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board noted that you may be eligible for benefits with the Department of Veterans Affairs (DVA) based on your first period of honorable service. You may wish to contact your local office of the DVA for a determination.

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