



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

TJR  
Docket No: 7333-09  
10 June 2010

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 8 June 2010. The names and votes of the members of the panel will be furnished upon request. 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. In addition the Board considered the proceedings of the Naval Discharge Review Board decision docket of 15 May 2003.

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 on 21 November 1997 at age 21. You served without disciplinary incident until 23 March 1999, when you received nonjudicial punishment (NJP) for assault.

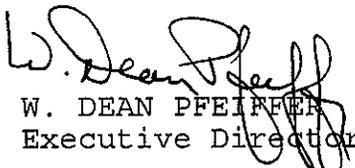
Your record reflects a Navy drug laboratory report which states, in part, that in December 2000 your urine sample tested positive for marijuana. As a result, on 6 February 2001, you were notified of pending administrative separation under other than honorable conditions by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected your procedural right to present your case to an administrative discharge board (ADB). On 24 July 2001 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse, but further recommended that separation be suspended for 12 months. On 29 August 2001 your commanding officer also recommended discharge under other than honorable conditions by

reason of misconduct due to drug abuse. This recommendation further stated, in part, that the separation should not be suspended as recommended by the ADB. On 26 October 2001 the discharge authority, in concurrence with the commanding officer's recommendation, directed discharge under other than honorable conditions by reason of misconduct due to drug abuse, and on 9 November 2001, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertions regarding drug abuse, mishandling of urinalysis process, and improper administrative separation processing. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or removal of material regarding your misconduct because of the seriousness of your drug related misconduct. Finally, there is documented evidence in the record that is contrary to your assertions. Accordingly, your application has been denied.

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