



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

TJR
Docket No: 8752-09
16 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 15 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.

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 Marine Corps on 21 February 1987 after nearly three years of prior service. About a year and eight months later, on 25 October 1988, you received nonjudicial punishment (NJP) for absence from your appointed place of duty and wrongful use of amphetamines/methamphetamines. The punishment imposed was reduction to paygrade E-4, restriction and extra duty for 30 days, and a \$1,000 forfeiture of pay. Less than nine months later, on 20 July 1989, you received NJP for six periods of absence from your appointed place of duty and disobedience. The punishment imposed was reduction to paygrade E-3 and a \$250 forfeiture of pay.

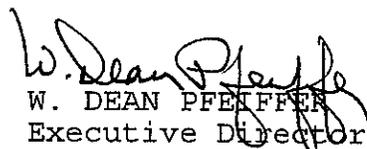
Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you waived your right to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse.

The discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 4 August 1989, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior service, post service conduct, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in two NJPs and included drug abuse. Further, you were given an opportunity to defend yourself and possibly receive a better characterization of service, but waived your procedural right to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time or an individual's good post service conduct. 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 PFENFFER
Executive Director