



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

SJN
Docket No: 08769-09
28 June 2010

[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 22 June 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.

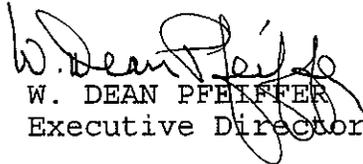
You reenlisted in the Navy on 27 August 1982 after six years of honorable service. The Board found that on 21 July 1985, you received nonjudicial punishment (NJP) for wrongful use of marijuana, disrespectful language, and disobedience. On 21 July 1985, you were found to be a drug or alcohol abuser. You were counseled and warned that further misconduct or drug involvement could result in administrative discharge action. Additionally, you were placed on the command's urinalysis surveillance program. On 22 and 29 November 1985, you tested positive for marijuana. You were released from the alcohol rehabilitation program, and administrative discharge action was initiated by reason of misconduct due to drug abuse. An administrative discharge board recommended that you be discharged from the service with an other than honorable (OTH) discharge due to drug use. Subsequently, your case was forwarded and the separation authority directed that you receive an OTH discharge. You were so discharged on 6 May 1986.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your prior honorable service and last period of active duty. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP for drug use, failure to adhere to your command's urinalysis program, failure of the drug and alcohol rehabilitation program, and the fact that you were warned of the consequences of further drug involvement. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans' benefits that accrued during your prior honorable service. Whether or not you are eligible for benefits based on either period of service is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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