



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

TJR
Docket No: 9004-09
8 July 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 7 July 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.

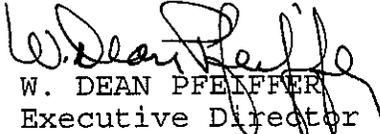
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 10 April 1990 after about 12 years of prior honorable service. You continued to serve without disciplinary incident until 18 May 1993, when you received nonjudicial punishment (NJP) for wrongful use of a controlled substance. As a result, and in accordance with the Navy's zero tolerance policy, you were administratively processed for separation by reason of misconduct due to drug abuse. It appears that after waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB), the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to drug abuse, and on 7 October 1993, you were so discharged. However, in June 2008, the Naval Discharge Review Board (NDRB) changed the characterization of your service to general under honorable conditions. Nevertheless, your narrative reason for separation remained as misconduct due to drug abuse.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, post service conduct, and desire to change your reenlistment code and expunge your naval record of references to drug abuse. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the serious nature of your drug related misconduct which resulted in an NJP. Further, the Board noted that you were properly separated and that the NDRB recharacterized your service to general under honorable conditions. As such, the Board concluded that you were fortunate to receive a general discharge. Further, in accordance with Navy regulations, Sailors discharged by reason of misconduct must receive an RE-4 reenlistment code. Finally, there is no supportive evidence in the record, and you submitted none, to warrant expungement of drug abuse from your naval record. 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