



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

TJR
Docket No: 9598-09
22 July 2010

[REDACTED]

Dear [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 20 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 enlisted in the Navy on 25 November 1987 at age 18 and began a period of active duty on 23 February 1988. You served without disciplinary incident until 4 January 1989, when you were convicted by special court-martial (SPCM) of two periods of unauthorized absence (UA) totalling 92 days. On 16 October 1989 you received nonjudicial punishment (NJP) for dereliction of duty, two specifications of wrongful possession of hashish, and four specifications of wrongful use of hashish. On 18 October 1989 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your procedural rights to legal counsel and an administrative discharge board (ADB). On 31 October 1989 you received NJP for two periods of failure to go to your appointed place of duty. Nonetheless, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct due to drug abuse, and on 7 December 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 youth, desire to upgrade your discharge, and remove all references regarding drug abuse from your record. It also considered the news media report provided in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or removal of derogatory material from your record because of the seriousness of your repetitive misconduct which resulted in two NJPs and a court-martial conviction. Finally, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. 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