



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

SJN  
Docket No: 12755-09  
16 September 2010

[REDACTED]

[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 14 September 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 enlisted in the Navy and began a period of active duty on 17 May 1979. The Board found that on 29 March 1983, you were the subject of a urinalysis, which appears to have been conducted after a brief unauthorized absence (UA). The Board found that you received nonjudicial punishment (NJP) for UA and disobedience, by failing to report the use of marijuana by other Navy members. You received a forfeiture of pay, restriction, extra duty, and a reduction in paygrade. Additionally, you were counseled and warned that further misconduct or personal abuse of drugs could result in administrative discharge action. On 19 April 1983, a substance abuse report stated, in part, that you exhibited potential for further service, but recommended that you be administratively separated. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug use. It appears you waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your case was forwarded recommending that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. Your commanding officer stated, in part, that you submitted to a urinalysis for probable cause

which tested positive for marijuana, and had been counseled on numerous occasions of the Navy's policy on drug abuse. The discharge authority concurred and directed an other than honorable discharge by reason of misconduct due to drug use. On 10 May 1983, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or showing that you were advanced to a higher paygrade given your NJP for drug use, and the fact that you were counseled and warned of the consequences of further misconduct and drug use. Finally, the Board noted that it appears you waived the right to an ADB, your best chance for retention or a better characterization of service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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