



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

TJR
Docket No: 1560-10
20 October 2010

[REDACTED]

[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 13 October 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 Marine Corps on 24 April 1982 at age 18 and began a period of active duty on 16 November 1982. You served without disciplinary infraction until 4 September 1984, when your urine sample tested positive for an illegal substance resulting in a failed urinalysis. At that time you were assigned to a drug testing program. On 26 September 1984 you received nonjudicial punishment (NJP) for wrongful use of marijuana. The punishment imposed was restriction for 30 days, reduction to paygrade E-2, and a \$300 forfeiture of pay. Shortly thereafter, on 20 December 1984, you were removed from the drug testing program as a result of eight negative urinalyses.

On 16 December 1985 you received your second NJP for wrongful use of marijuana and were awarded a reduction to paygrade E-2, restriction and extra duty for 45 days, and a \$700 forfeiture of pay. Subsequently, you were processed for an administrative

separation by reason of misconduct due to drug abuse. After waiving your procedural rights, 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 15 October 1986, 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, 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 drug related misconduct which resulted in two NJPs. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an administrative discharge board. Accordingly, your application has been denied.

Regarding your request for a hearing, Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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