



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

TJR
Docket No: 2196-10
14 January 2011

[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 11 January 2011. 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 20 April 1979 at age 18 and began a period of active duty on 1 May 1979. You served without disciplinary incident until 31 March 1982, when you received nonjudicial punishment (NJP) for wrongful possession of marijuana. The punishment imposed was a \$67 forfeiture of pay, restriction for 53 days, extra duty for five days, and reduction to paygrade E-3.

On 29 July 1982 you were convicted by special court-martial (SPCM) of wrongful possession, sale, and transfer of cocaine. You were sentenced to confinement for 90 days, 75 days of which was suspended for six months, a \$1,095 forfeiture of pay, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and on 22 May 1987 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 and desire to upgrade your discharge. It also considered your assertion that your discharge was due to your addiction which was later determined to be a disease. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct which resulted in NJP, a SPCM, and your discharge. Finally, even if your addiction existed at the time of your service, such abuse or condition is not excusable for misconduct and you were responsible for your actions. 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