



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

TJR
Docket No: 3033-10
26 January 2011



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 25 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 7 November 1985 at age 25 and served for nearly three years without disciplinary incident. However, on 12 September 1988, you received nonjudicial punishment (NJP) for wrongful use of marijuana. The punishment imposed was a \$600 forfeiture of pay, extra duty for 45 days, and a reduction in paygrade.

On 19 October 1988 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). Subsequently, an ADB recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 7 December 1988 your commanding officer, in concurrence with the ADB, also recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 21

January 1989 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to drug abuse, and on 14 February 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 period of satisfactory service, post service conduct, and desire to upgrade your discharge so that you may obtain benefits. It also considered your assertion that your discharge was the result of your refusal to admit using drugs, when in fact you were not a drug user. 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 an NJP. Finally, there is no evidence in the record, and you submitted none, to support your assertion. 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