



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

SJN
Docket No: 04355-09
8 April 2010



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 30 March 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 16 January 1981 at age 19. On 23 December 1982 and 27 January 1983, you received nonjudicial punishment (NJP) for use of marijuana and disobedience. After your first NJP, you were counseled and warned that further misconduct could result in administrative discharge action. Based on the information currently contained in your record it appears you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. Further, 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 and the separation authority directed a general discharge by reason of misconduct. On 18 March 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 found that these factors were not sufficient to warrant recharacterization of your discharge given your two NJP's, one of which was for drug use,

and the fact that you were counseled and warned of the consequences of further misconduct. The Board noted that it appears you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, the Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is separated for misconduct. 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