



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

TJR
Docket No: 6092-10
24 March 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 22 March 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 17 November 1980 at age 18 and began a period of active duty on 3 March 1981. You served for about three months without disciplinary incident, but on 3 June and 1 October 1981, you received nonjudicial punishment (NJP) for failure to obey a lawful order and assault on a fellow shipmate.

On 12 October 1982 you received your third NJP for wrongful possession of hashish and were awarded restriction and extra duty for 30 days, reduction to paygrade E-2, and a \$200 forfeiture of pay. A portion of the punishment was suspended for three months. On 17 December 1982 you were convicted by civil authorities of possession of marijuana, resisting arrest, and failure to appear, and sentenced to a \$45 fine. Shortly thereafter, on 27 December 1982, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB).

On 23 January 1983 you received NJP for a 10 day period of unauthorized absence (UA) and were awarded restriction and extra duty for 20 days, a \$200 forfeiture of pay, and reduction to paygrade E-2. On 25 January 1983 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse and civil conviction. On 26 January 1983 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to drug abuse, and on 17 February 1983, 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 assertions of harassment, duplicate urine sample testing, and not being offered other alternatives to resolve your problems. 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 four NJPs and conviction by civil authorities. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is no documented evidence in the record, and you provided none, to support your assertions. 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