



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

TJR
Docket No: 6724-10
22 April 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 19 April 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 18 June 1991 at age 24 and began a period of active duty on 26 July 1991. You served without disciplinary infraction until 2 May 1993, when you were arrested by civil authorities for assault and battery with intent to kill as evidenced by striking another with a wooden 2x4. About two months later, on 27 July 1993, your urine sample tested positive for marijuana use. On 5 August 1993 you received nonjudicial punishment (NJP) for wrongful use of marijuana and assault. The punishment imposed was reduction to paygrade E-2, restriction and extra duty for 45 days, and a \$912 forfeiture of pay.

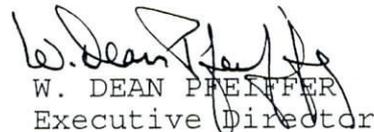
On 27 September 1993 you were notified of pending administrative separation action by reason of misconduct due to drug abuse and commission of a serious offense. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On 20 October 1993 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse and commission of a serious offense. On 15 October 1993 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 commission of a serious offense, and on 5 November 1993, 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, desire to upgrade your discharge, and assertion of emotional, mental, and family issues. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which included wrongful use of drugs. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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 PREIFFER
Executive Director