



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

TJR  
Docket No: 6732-10  
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 14 August 1984 at age 19 and began a period of active duty on 12 December 1984. You served without disciplinary incident until 11 July 1985, when you received nonjudicial punishment (NJP) for two specifications of assault. The punishment imposed was reduction to paygrade E-1 and a \$310 forfeiture of pay, which was suspended for six months.

On 8 April 1987 you received NJP for two periods of absence from your appointed place of duty and two specifications of failure to obey a lawful order by refusing to provide transportation for a superior officer and duplicating a Plan of the Day document. About eight months later, on 21 December 1987, you received your third NJP for wrongful use of cocaine, failure to go to your appointed place of duty, and failure to obey a lawful order by leaving an office while being questioned by a superior officer.

On 23 December 1987 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 28 December 1987 you were medically evaluated and although you were found to abuse cocaine, you were not dependent on it. You were directed to attend narcotics anonymous meetings on a weekly basis and to seek further assistance or evaluations as needed. On 5 January 1988 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. Subsequently, 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 15 January 1988, 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 that you were not afforded an opportunity to seek help for your drug abuse. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repeated misconduct which resulted in three NJPs and 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. Finally, there is evidence in the record that is contrary to your assertion that you were not afforded an opportunity to obtain assistance for your drug abuse. 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