



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

TAL
Docket No: 11454-10
3 August 2011

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 27 July 2011. 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 29 May 1980 at age 19. You acknowledged pre-service drug use and were granted a drug abuse waiver to enter the Navy. On 23 June 1981, you were arrested by Norfolk City Police, Norfolk, Virginia, for possession of marijuana and trespassing. You were convicted on both charges and sentenced to pay court costs, a fine, and placed on first offender status. On 4 November 1981 you received nonjudicial punishment (NJP) for possession of marijuana onboard the USS John F. Kennedy and breach of peace by engaging in a fight on board ship. On 5 September 1982, you were in unauthorized absence (UA) from your unit until 7 September a period of two days. On 28 November 1982, you received NJP for unauthorized absence from your unit for a period of six days. On 4 April 1983, you received NJP for wrongful use of marijuana. You were counseled on several occasions regarding your misconduct and warned that further offenses could result in administrative separation. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (drug abuse). You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 17 May 1983, an ADB unanimously found

that you had committed misconduct and recommended that you be discharged under OTH conditions due to drug abuse. On 9 August 1983, the separation authority directed an OTH discharge by reason of misconduct due to drug abuse. On 22 August 1983 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in three NJPs and a civil conviction. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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