



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

TAL
Docket No: 566-11
17 October 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 5 October 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 24 February 1970 at the age of 19. On 13 August 1970, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit for a period of 26 days. On 24 September 1970, you made a statement to a Naval Investigative Service (NIS) agent admitting to using marijuana, lysergic acid diethylamide (LSD), and amphetamines. On 6 October 1970, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to unfitness. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 12 November 1970, the ADB recommended an OTH discharge by reason of unfitness. The separation authority agreed with the finding and recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct due to unfitness, and on 4 January 1971, you were so discharged. On 13 November 1974, the Naval Discharge Review Board (NDRB) upgraded the characterization of your discharge to general under honorable conditions based on Secretary of Defense authority memorandum of 13 August 1971 (Laird Memo).

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 an NJP and drug use. The Board believed that you were very fortunate to have your discharge upgraded to a general characterization of service. 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