



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

RDZ:ecb
Docket No. 01466-11
19 April 2011

[REDACTED]

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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 12 April 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 26 June 2001 for four years. Your record shows that during your initial military processing you were fully briefed on the Navy's zero tolerance drug policy the violation of which could result in court-martial proceedings and/or involuntary administrative discharge. Unfortunately on 25 October 2002, after serving a little more than one year and four months on active duty you received nonjudicial punishment for 56 days of unauthorized absence, desertion and illegal use of marijuana. When you were informed that you were being recommended for administrative separation with an other than honorable discharge (OTH) due to illegal use of drugs you waived your right to appear before an administrative discharge board (ADB) where the assistance of a

military lawyer you could have requested retention or a better discharge. On 12 December 2002 you were issued an OTH.

In its review of your application the Board concluded that in view of the seriousness of the offense for which you were discharged (drug usage) as well as your apparent willingness to accept an OTH rather than serve out your enlistment as evidenced by your waiver to appear before an ADB your discharge was proper as issued and should not be changed now as a matter of clemency. The Board also noted that in addition to drug usage you were also punished for other serious offenses, namely 56 days of unauthorized absence and desertion either of which could have served as a basis for administrative discharge.

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