



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 3204-11
17 January 2012

[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 12 January 2012. 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 19 June 1989 at age 19 and began a period of active duty. You served for about 10 months without disciplinary incident, but during the period from 17 April to 6 September 1990, you received nonjudicial punishment (NJP) on three occasions for sleeping on watch, larceny of a wallet containing \$100 to \$300, and wrongful use of marijuana. Shortly thereafter, you were processed for an administrative separation by reason of misconduct due to drug abuse. After waiving your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB), your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed separation under honorable conditions by reason of misconduct due to drug abuse. On 8 March 1991 you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade the characterization of your discharge. It also considered your assertion of being told that your discharge would be upgraded 10 years after being separated. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct, which resulted in three NJPs, and included drug abuse. Further, the Board noted that you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded and/or changed due solely to the passage of time or an individual's good post service conduct. 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