



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

SJN  
Docket No: 03502-11  
17 January 2012



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 January 2012. 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.

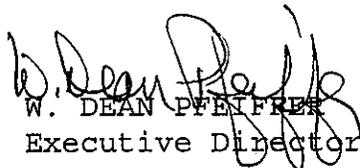
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began active duty on 18 November 1987. During the period from 5 April 1989 to 27 July 1994, you received three nonjudicial punishments (NJP's) for three periods of unauthorized absence (UA) totaling 34 days, and wrongful use of marijuana. Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You elected to consult counsel and have your case heard before an administrative discharge board (ADB). On 31 August 1994, the ADB recommended separation with an other than honorable (OTH) discharge by reason of misconduct due to drug abuse. On 15 September 1994, your commanding officer (CO) concurred with the ADB's findings and forwarded his recommendation that you be discharged. On 30 September 1994, the discharge authority directed an OTH discharge by reason of misconduct due to drug abuse. You were discharged on 14 October 1994.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, post service accomplishments, and contention of "Double Jeopardy". Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your three NJP's, one of which was for wrongful use of drugs. With regard to your contention, it is important to keep in mind that the NJP and ADB were two separate fact finding processes. In your case the CO's decision to impose NJP was based on a valid urinalysis. Further, Navy regulations state that all CO's must process for separation Sailors who have committed misconduct due to drug abuse, and since you presented no significant evidence at the ADB to secure your retention, you were administratively discharged from the Naval 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