



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

TJR
Docket No: 4704-11
17 February 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 14 February 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 Naval Reserve on 2 October 1987 after two years of prior honorable service. In November 1987 you were recalled to active duty. On 16 November 1987 your urine sample tested positive for marijuana.

Your record contains a drug and alcohol report which states, in part, that you had a positive urinalysis, and that you admitted to using marijuana for about three years. It further states that you denied using narcotics/hard drugs. Nonetheless, you were counselled regarding the Navy's zero tolerance policy.

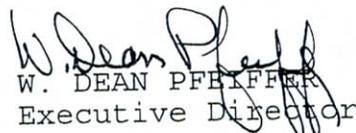
Subsequently, you were notified, via registered mail, of pending administrative separation actions by reason of misconduct due to drug abuse. Presumably, after waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse.

On 8 July 1988 the discharge authority approved this recommendation and directed discharge under other than honorable conditions by reason of misconduct, and on 11 July 1988, you were so discharged. At that time you were not recommended for reenlistment and/or reaffiliation.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior satisfactory service and desire to upgrade your other than honorable discharge. It also considered your assertion that the discharge is both inequitable and improper. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your drug related misconduct which was contrary to the Navy's "zero tolerance" policy. Further, you were presumably given an opportunity to defend yourself but waived your procedural right to legal counsel and to present your case to an administrative discharge board. Finally, there is documented evidence in the record that is contrary to your assertion. 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