



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

TJR
Docket No: 5452-11
8 March 2012

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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 6 March 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 again enlisted in the Navy on 23 December 1987 in the Delayed Entry Program (DEP) at age 26 and began a period of active duty on 11 January 1988. You served without disciplinary incident until 7 May 1992, when you received nonjudicial punishment (NJP) for wrongful use of cocaine. The punishment imposed with restriction and extra duty for 45 days, a \$521 forfeiture of pay, and reduction to paygrade E-3.

Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. After waiving your procedural rights, on 19 June 1992, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 29 June 1992 the discharge authority approved this recommendation and directed discharge under other than honorable conditions by reason of misconduct due to drug abuse, and on 16 July 1992, you were so discharged.

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 discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct which resulted in NJP and was contrary to the Navy's "zero tolerance" policy. Further, you were given an opportunity to defend yourself but waived your procedural right to legal counsel and to present your case to an administrative discharge board. 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