



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

TJR
Docket No: 5513-11
8 March 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 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 enlisted in the Navy on 19 July 2007 and immediately began a period of active duty. You served without disciplinary infraction until 12 March 2009, when you submitted a written statement in which you admitted using and buying marijuana, procuring another Sailor's urine for testing, and consuming a detoxifying agent prior to testing as a means to avoid a positive urinalysis. As a result, on 31 March 2009, you received nonjudicial punishment (NJP) for two specifications of failure to obey a lawful order and wrongful use of marijuana. The punishment imposed with restriction for 60 days, a \$1,450 forfeiture of pay, and reduction to paygrade E-1.

Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. After waiving your procedural rights, on 27 April 2009, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 29 April 2009 the

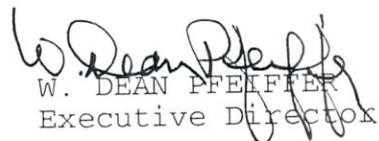
discharge authority approved this recommendation and directed discharge under other than honorable conditions by reason of misconduct due to drug abuse, and on 26 May 2009, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and change your reenlistment code. It also considered your supporting documentation regarding your term of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your reenlistment code 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.

The Board also noted that you are entitled to submit the attached Application for the Review of Discharge or Dismissal from the Armed Forces of the United States (DD Form 293) to the Naval Council of Personnel Boards, attention: Naval Discharge Review Board, 720 Kennon Street, S. E., Room 309, Washington Navy Yard, Washington, DC 20374-5023 for consideration of an upgrade of your discharge and a change in your narrative reason for discharge.

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

Enclosure