



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 1567-10  
4 November 2010

[REDACTED]

[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 2 November 2010. 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 6 October 1989 at age 20 and began a period of active duty. You served without disciplinary incident until 11 February 1992, when you received nonjudicial punishment (NJP) for wrongful possession and use of marijuana and disrespect. Shortly thereafter, during a medical evaluation, you stated, in part, that you had used marijuana prior to enlistment, but not again until celebrating at a party and having consumed too many alcoholic beverages. The medical examiner found that you were not drug or alcohol dependent and therefore not recommended for rehabilitation. The recommendation for further service was deferred to your commanding officer. On 21 February 1992 your commanding officer stated, in part, that you had demonstrated a total lack of integrity, reliability, and honesty by your possession and use of marijuana and that your conduct was detrimental to the good order and discipline of the command.

Subsequently, you were processed for an administrative separation by reason of misconduct due to commission of a serious offense and drug abuse. After waiving your procedural rights to consult

with legal counsel and to present your case to an administrative discharge board (ADB, the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to commission of a serious offense, and on 27 February 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 youth, character reference letters, and desire to upgrade your discharge. It also considered your assertion that you did not smoke marijuana prior to your enlistment nor did you smoke it after your discharge. 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 NJP due to drug abuse. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is documented evidence in the record that is contrary to your assertion that you did not smoke marijuana prior to your enlistment. 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