



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

BAN
Docket No: 04292-10
2 February 2011

[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 20 January 2011. 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.

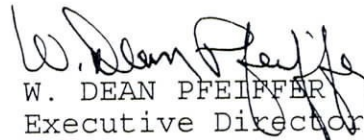
You enlisted in the Navy on 14 March 1980, and served without disciplinary incident until 23 November 1981, when you received nonjudicial punishment (NJP) for wrongful use of a controlled substance (marijuana). Shortly thereafter, you received another NJP for assault. Therefore, you were recommended for separation with an other than honorable (OTH) discharge due to misconduct (commission of a serious offense). You waived all of your procedural rights, to include your right to an administrative discharge board (ADB). The separation authority approved the recommendation for an OTH discharge and on 27 February 1985, you were separated with an OTH discharge and 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 claim that you acted in self-defense and that you had an

exemplary record prior to the offense. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge because of the serious offenses. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Regarding your claim of self-defense, there is no evidence in the record to support it, and you have offered no such evidence. 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