



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

TJR
Docket No: 12560-11
4 October 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 2 October 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.

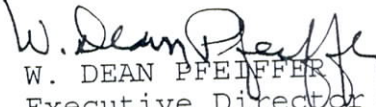
You enlisted in the Naval Reserve on 28 September 1987 and began a period of active duty on 4 January 1988 at the age 19. On 8 June 1988 you failed a urinalysis by testing positive for marijuana. Shortly thereafter, on 21 July 1988, you received nonjudicial punishment (NJP) for wrongful use of marijuana. Nearly a year later, on 12 May 1989, your urine sample again tested positive for marijuana, and as a result, on 9 June 1989, you received NJP for wrongful use of marijuana.

Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. After waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB), on 17 June 1989, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 22 June 1989, 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 and desire to upgrade your discharge. It also considered your assertion that your second failed urinalysis was due to residue from the first testing. 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 two NJPs. 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. 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