



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

CRS  
Docket No: 1364-07  
2 May 2008

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 16 April 2008. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

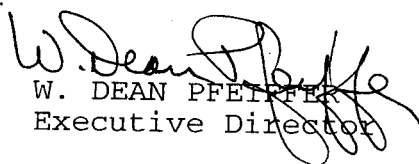
The Board found that you reenlisted in the Navy on 14 March 2003 after more than three years of prior active service. On 21 July 2006 you received nonjudicial punishment for wrongful use of marijuana. The punishment imposed consisted of forfeiture of \$504 per month for two months, reduction in rank to AO3, and extra duty for 45 days. On 18 August 2006 an administrative discharge board (ADB) found no misconduct and recommended retention. On 19 October 2006 your commanding officer concurred with the ADB and informed the discharge authority; however, he did not set-aside the NJP.

The Board did not accept your contention to the effect that you learned after you received the positive test result that an acquaintance, without your knowledge, had added a substantial amount of marijuana to the baked beans you ate at a cookout; consequently, you did not knowingly or wrongfully ingest marijuana. The Board presumed that your commanding officer acted reasonably in your case when he determined that you had wrongfully used marijuana, and concluded that he was in the best position to resolve the factual issues and to impose appropriate punishment. 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