



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

JRE  
Docket No. 07956-07  
11 August 2008

[REDACTED]

[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 24 July 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.

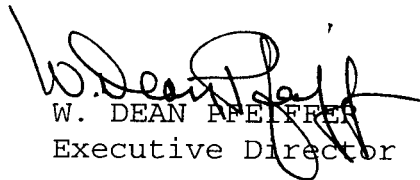
The Board found that you served on active duty in the Marine Corps from 18 October 2004 to 18 July 2006, when you were discharged by reason of misconduct/drug abuse, with a discharge under other than honorable conditions. The discharge and characterization of your service were based on your wrongful possession and use of marijuana on two occasions, and two instances of nonjudicial punishment. Following your discharge, the Department of Veterans Affairs (VA) determined that your discharge was based on willful and persistent misconduct, and,

therefore, that you were not entitled to VA benefits other than medical care.

The available records do not demonstrate that you were unfit for further service by reason of physical disability at the time of your discharge. You would not have been entitled to disability separation or retirement even if you had been unfit for duty, as the discharge by reason of misconduct would have taken precedence over disability evaluation processing. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge to general or honorable as a matter of clemency, 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