



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

SJN
Docket No: 00719-08
21 January 2009



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 6 January 2009. 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 reenlisted in the Navy on 1 February 1983 after eight years of honorable service. You served without incident for over four years until 15 July 1987, when you received nonjudicial punishment (NJP) for possession of marijuana. You received restriction, a reduction in paygrade, and a forfeiture of pay.


On 16 July 1987, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse determined by a unit sweep urinalysis. You waived your right to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Further, you were referred to a Counseling and Assistance Center (CAAC) Level II program. However, on 18 August 1987, the CAAC determined that you were alcohol dependent, a drug abuser, and were in denial of your problems. At that time it was recommended that you received Level III treatment through the Veterans Administration upon separation.

On 1 September 1987, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. On 15 September 1987, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse. You were so discharged on 29 September 1987.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, and overall record of your last period service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in NJP for drug use. Further, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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