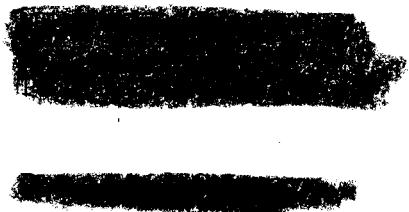




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BAN
Docket No: 01748-08
6 October 2008



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 30 September 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 22 August 1990, and served without disciplinary incident until 6 October 1992, when you received nonjudicial punishment for failing a command urinalysis screening test for illegal drug use, specifically, codeine. You contend that you received Tylenol-3 (Tylenol with codeine) in September 1992 from a medical facility for flu-like symptoms which caused you to have a positive drug result. However, your initial command urinalysis testing was on 26 August 1992, and your medical records indicate you received medical treatment for your flu-like symptoms on 23 September 1992, approximately one month after you received a positive urinalysis. Therefore, on 9 October 1992, you were notified of your pending administrative separation due to illegal drug use with an other than honorable discharge and an RE-4 reenlistment code. On 19 October 1992, the separation authority approved the request and on 29 October 1992,


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, post service conduct, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant changing your characterization because of the seriousness of your misconduct. 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