



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

SJN  
Docket No: 07197-08  
16 June 2009

[REDACTED]

Dear [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 10 June 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 23 June 2006 after four years of honorable service. On 18 December 2007 and 16 April 2008, you received nonjudicial punishment (NJP) for wrongful use of a controlled substance and disobedience (viewing pornographic material on a government computer). You were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB).

On 20 August 2008, an ADB unanimously found that you had committed misconduct due to commission of a serious offense, and recommended discharge under other than honorable conditions. Your commanding officer concurred with the ADB's findings and recommendations and forwarded your case to the separation authority for review. On 23 September 2008, the separation authority directed an other than honorable discharge by reason of misconduct. On 8 October 2008 you were so discharged.

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 of service. Nevertheless, the Board found that these factors were not sufficient to warrant removal of any NJP from your official military records given the serious nature of the offenses. 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