



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

BAN
Docket No: 07844-08
8 May 2009

[REDACTED]

[REDACTED]

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 6 May 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 initially enlisted in the Navy from 1980 to 1983, and received an honorable discharge and an RE-R1 reenlistment code. You reenlisted on 26 October 1983, and served without disciplinary incident until 24 March 1984, when you were counseled for drug use (marijuana). Further, on 11 December 1984, you received nonjudicial punishment for illegal use of a controlled substance (marijuana). On 27 December 1984, you were recommended for separation due to your drug abuse. However, your commanding officer recommended a general discharge due to your work performance. Although the separation authority approved the recommendation for separation, he directed an other than honorable (OTH) discharge vice a general discharge on 9 January 1985. Therefore, on 10 January 1985, you were separated with an OTH and an RE-4 reenlistment code.

The Board, in its review of your entire record and application,


carefully weighed all potentially mitigating factors, such as your youth and belief that enough time has elapsed to warrant upgrading your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Further, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

The Board noted that you may be eligible for veterans' benefits from your first period of honorable service. You should contact the nearest office of the Department of Veterans Affairs to make a determination of your eligibility.

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