



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

TJR
Docket No: 8824-08
20 July 2009

[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 14 July 2009. The names and votes of the members of the panel will be furnished upon request. 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 7 July 1990 at age 19 and began a period of active duty on 6 November 1990. You served for a year without disciplinary incident, but on 17 December 1991, you received nonjudicial punishment (NJP) for being an accessory to an offense after the fact.


On 27 February 1992 you received NJP for wrongful possession and use of marijuana and absence from your appointed place of duty. On 6 March 1991 you were convicted by summary court-martial (SCM) of wrongful possession of marijuana and wrongful possession of alcoholic beverages onboard your ship. Subsequently, you were referred for a medical evaluation for drug abuse and were found to be psychologically dependent on marijuana.

As a result of the foregoing, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 13 March 1992 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 27 March 1992 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to drug abuse, and on 6 April 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, the passage of time, and your desire to upgrade your discharge. It also considered your assertion that you have learned from your mistake and would now like a second chance in life. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your other than honorable discharge because of the seriousness of your repetitive drug related misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertion, and no discharge is upgraded due solely to the passage of time or an individual's good post service conduct. Accordingly, your application has been denied.

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