

## **DEPARTMENT OF THE NAVY**

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

SMS

Docket No: 9978-08 5 February 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 4 February 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 26 March 1984, you enlisted in the Navy at age 20. On 9 August 1984, you had nonjudicial punishment (NJP) for falsely altering with the intent to deceive an armed forces liberty card. You were also counseled regarding this offense and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 29 August 1984, you were charged with driving under the influence (DUI) of alcohol. On 13 September 1984, you missed a substance abuse counseling appointment and were apparently in civilian confinement pending charges. On 13 September 1984, you were charged in civilian court with loitering or prowling and trespassing, and it appears that you were subsequently convicted of these offenses in addition to contempt of court and resisting an officer. On 4 October 1984, you were convicted in civilian court of DUI and sentenced to community service and a fine. On 18 October 1984, you had NJP for two instances of UA totaling about two days and absence from your appointed place of duty. On 17 November 1984, you missed a substance abuse counseling appointment. On 21 December 1984, you received a substance abuse evaluation during which you denied having substance abuse problems. The evaluation diagnosed you as being alcohol dependent and recommended administrative separation. On 8 January 1985, you had NJP for use of marijuana. On 9 January 1985, you missed a substance

abuse counseling appointment. On 16 January 1985, a medical evaluation found that you were dependent on drugs and stated that you had no potential for further service due to your lack of motivation for treatment.

On 25 January 1985, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, you acknowledged that separation could result in an OTH discharge and elected to have your case heard by an administrative discharge board (ADB). On 27 March 1985, an ADB convened and found that you were guilty of misconduct due to drug abuse, and recommended an OTH discharge. On 2 April 1985, your urinalysis tested positive for marijuana and cocaine. On 12 April 1985, your urinalysis tested positive for marijuana. On 8 June 1985, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 25 June 1985, you acknowledged that you were offered treatment for drug and alcohol abuse at a Veterans Affairs facility before being discharged, but declined the treatment. On 25 June 1985, you were discharged with an OTH discharge by reason of misconduct due to drug abuse.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and post service conduct. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in an OTH discharge. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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,

Executive Dinecto

Copy to:
The Honorable Lindsey Graham