



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

REC
Docket No: 05586-09
22 April 2010

[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 21 April 2010. 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.

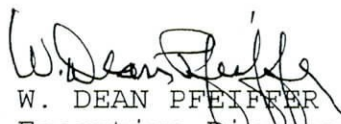
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 8 August 2000, at age 18. On 19 April 2002, you received nonjudicial punishment (NJP) for wrongfully communicating a threat to kill. Between 6 September and 17 September 2002, you tested positive in urinalyses for cocaine. On 7 February 2003, you were convicted at a special court-martial (SPCM) for three occasions of being in an unauthorized absence (UA) status, dereliction of duty, three instances of wrongful use of cocaine, and sodomy. You were sentenced to forfeitures of \$2,100, 90 days confinement, and reduction to pay grade E-1. On 23 April 2003, you refused the opportunity for treatment from the Substance Abuse Rehabilitation Program and were recommended for discharge. On 30 April 2003, administrative discharge action was initiated to separate you by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 4 June 2003, the discharge authority directed an other than honorable discharge by reason of misconduct. You were so discharged on 24 June 2003.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in one NJP, conviction by one SPCM and four positive urinalyses results. Finally, you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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