



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

TJR
Docket No: 9659-09
22 July 2010

[REDACTED]

Dear [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 20 July 2010. 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 reenlisted in the Navy on 5 December 1985 after four years of prior honorable service. You continued to serve without disciplinary incident until 30 September 1987, when you received nonjudicial punishment (NJP) for wrongful use of marijuana. You were counselled regarding this misconduct and advised that, although you were being retained, any further misconduct, especially drug related misconduct, would result in an administrative discharge. Less than three months later, on 15 December 1987, you again received NJP for wrongful use of marijuana.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected your procedural right to present your case to an administrative discharge board (ADB). On 15 January 1988 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 29 January 1988 your commanding officer also recommended discharge under other than honorable conditions by

reason of misconduct due to drug abuse. On 12 February 1988 the discharge authority approved these recommendations and directed separation under other than honorable conditions by reason of misconduct due to drug abuse, and on 1 March 1988 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as period of prior honorable service and desire to upgrade your discharge so that you may obtain veterans' benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive drug related misconduct which continued even after you were warned of the consequences which would result from this type of offense. Accordingly, your application has been denied.

The Board believes that you are eligible for veterans' benefits which accrued during your prior period of service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (DVA). You should contact the nearest DVA office concerning your rights, specifically, whether or not you are eligible for benefits based on your prior period of service.

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