



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

SJN
Docket No: 12761-09
16 September 2010

[REDACTED]

[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 14 September 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 Navy and began a period of active duty on 11 April 1983. The Board found that you received nonjudicial punishment (NJP) for wrongful use of marijuana and cocaine. You received a forfeiture of pay, extra duty, and a reduction in paygrade. On 13 November 1984, a substance abuse report stated, in part, that you used your personal problems as excuses for drug abuse, were an average worker who needed motivation and supervision, and that potential for further service was poor. You were counseled and warned that further drug use could result in administrative discharge action. On 19 December 1984, it was reported that you had shown a strong desire for rehabilitation and retention and, it was thought that you had potential for further service. You were retained in the Navy and referred to Level I rehabilitation and counseling. However, you tested positive again for marijuana on 23 April 1985. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug use. You waived your rights to consult counsel or have your case heard by an administrative discharge board (ADB). However, you did submit a statement on your behalf. Your case was forwarded recommending that you be discharged under

other than honorable conditions by reason of misconduct. The discharge authority concurred and directed an other than honorable discharge by reason of misconduct due to drug use. On 21 June 1985, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP for drug use, the fact that you were offered a chance at drug rehabilitation, and were warned of the consequences of further drug use. Finally, the Board noted that you waived the right to an ADB, your best chance 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