



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

TJR
Docket No: 3495-10
17 February 2011

[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 15 February 2011. 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 28 October 1980 at age 25 and served for nearly a year without disciplinary incident. However, on 1 September 1981, you were convicted by special court-martial (SPCM) of six specifications of wrongful conspiracy to sell marijuana and two specifications each of wrongful possession, transfer, and sale of marijuana. You were sentenced to a \$1,002 forfeiture of pay, reduction to paygrade E-1, and confinement at hard labor for four months.


Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 29 October 1982 an ADB recommended retention even though you had committed misconduct due to drug abuse. However, on 22 November 1982, your commanding officer did not concur with the ADB recommendation for retention and recommended discharge under honorable conditions. On 12 December 1982 the discharge authority approved the

recommendation for separation and directed your commanding officer to issue you a general discharge under honorable conditions by reason of convenience of the government due to drug abuse, and on 20 December 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of satisfactory service, desire to change the characterization of your discharge, and assertion that you have paid your debt for your misconduct. It also considered your character reference letters provided in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug-related misconduct which resulted in a SPCM. The Board concluded that you were fortunate to receive a general discharge since a punitive discharge is normally issued when a Sailor is separated due to drug abuse. 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