



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

SJN
Docket No: 05965-10
17 March 2011

[REDACTED]
[REDACTED] EST APT 401
[REDACTED]
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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 15 March 2011. 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 Marine Corps on 16 April 1986 after four years of honorable service. The Board found that you received nonjudicial punishment (NJP) for two instances of disobedience, and were convicted by special court-martial (SPCM) of wrongful use of cocaine. You were sentenced to confinement and a reduction in paygrade. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug use. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB).

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 30 November 1995, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, and desire to change your characterization of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge

given your NJP and conviction by SPCM of 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