



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

TJR
Docket No: 6062-10
18 March 2011

[REDACTED]
[REDACTED]
[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 March 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 Marine Corps on 31 August 1990 at age 18 and began a period of active duty on 3 October 1990. You served for nearly a year without disciplinary incident. However, on 3 July 1991, you were convicted by summary court-martial (SCM) of wrongful use of cocaine. You were sentenced to confinement for 30 days, reduction to paygrade E-1, and a \$200 forfeiture of pay.

On 11 December 1991 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 13 December 1991 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 3 December 1991 the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 9 January 1992 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertion that your discharge was unfair since you were punished for your illegal use of drugs when you were convicted by SCM. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your drug-related misconduct. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. 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