



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

REC
Docket No: 06575-10
16 March 2011

[REDACTED]
[REDACTED] DA FORM #41746
[REDACTED]
[REDACTED]
[REDACTED] Dear Mr. Weaver

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 16 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 enlisted in the Navy on 5 November 1980, at the age of 19. On 9 October 1981, you received nonjudicial punishment (NJP) for possession of marijuana. On 21 April 1982, you were convicted by a special court-martial (SPCM) of five incidents of failure to go to your appointed place of duty, being in an unauthorized absence (UA) status for one day, leaving the restricted men's hut, breaking restriction, having the intent to commit rape, and violation of a general regulation by wrongfully using cocaine. You were sentenced to a forfeiture of \$2,202, confinement at hard labor for six months, and a bad conduct discharge (BCD). Pending your discharge, you continued with your misconduct and on 8 June 1983, you received NJP for being UA on two occasions, and two incidents of failure to go to your appointed place of duty. The discharge authority directed the execution of your BCD. On 23 November 1983, after appellate review, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of two NJP's and conviction

by one SPCM of serious misconduct. 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