



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

TAL
Docket No: 1212-11
28 October 2011

[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 26 October 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.

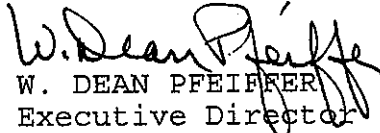
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 26 January 1988 at age 19. You received nonjudicial punishment (NJP) on two occasions for misbehaving as a sentinel (sitting down while on duty), insubordinate conduct toward a superior noncommissioned officer and communicating a threat. On 18 October 1992, you were convicted by special court-martial (SPCM) of wrongful use of cocaine. The sentence imposed was confinement for two months, reduction in paygrade, a forfeiture of pay and a bad conduct discharge (BCD). After appellate review the convening authority disapproved the BCD. Based on the information currently contained in your record it appears that you were subsequently processed for an administrative discharge by reason of misconduct due to drug abuse. In connection with this processing, you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. The record clearly shows that on 14 February 1992, you were discharged with an OTH characterization due to misconduct (drug abuse).

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 concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs and a SPCM. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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