



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

TJR  
Docket No: 4845-11  
17 February 2012



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 14 February 2012. 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 20 April 2001 in the Delayed Entry Program (DEP) at age 19 and began a period of active duty on 24 July 2001. Although incomplete, your record reflects that on 28 June 2004 you received nonjudicial punishment (NJP) for wrongful use of a controlled substance. It further reflects that your recommendation for advancement was withdrawn on that same date due to your drug related misconduct. On 9 August 2004 you acknowledged/signed an administrative remarks entry which reflects that you read and understood the foregoing actions.

Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. Presumably, after waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed discharge under other than honorable conditions by reason of misconduct, and on 23 June 2005, 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 you were never involved in any drug related activities. 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 NJP and was contrary to the Navy's "zero tolerance" policy. Further, you were presumably given an opportunity to defend yourself but waived your procedural right to legal counsel and to present your case to an administrative discharge board. Finally, there is documented evidence in the record, that you acknowledged, that is contrary to your assertion. 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