



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

TRG
Docket No: 3923-99
29 September 1999

[REDACTED]

Dear [REDACTED]

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 29 September 1999. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 15 March 1993 at age 18. On 29 April 1994 you received nonjudicial punishment for disobedience. On 7 February 1996 you received nonjudicial punishment for 16 specifications of use and distribution of LSD and hashish. The punishment imposed was 45 days restriction and extra duty, forfeiture of \$465 pay per month for two months, and reduction in rate from ATAN (E-3) to ATAA (E-2).

Subsequently, you were processed for an administrative discharge due to your commission of a serious offense. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. Subsequently, the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a discharge under other than honorable conditions. The DD Form 214 shows that you were discharged on 4 March 1996. However, this may be in error because other documents in the record show that the date should be after 26 March 1996, which is consistent with the entry you made on the DD Form 149 showing that you were discharged on 1 April 1996.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and contentions that you were falsely accused and unjustly discharged. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given the multiple and serious drug related offenses. There is no evidence in the record, and you have submitted none, to show that you were not guilty of the offenses. In this regard, it is clear that you could have presented your case to an administrative discharge board, but you declined to do so. Without a court-martial or administrative discharge board record, there is nothing to support your contentions. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

If you desire a change in the date of your discharge, you should make that request in a separate application. A DD Form 149, is enclosed for your use in this regard.

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