



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

REC
Docket No: 01935-10
18 November 2010

[REDACTED]

[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 17 November 2010. 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 reenlisted in the Navy on 4 March 1982. On 8 July 1982, you signed a Statement of Awareness regarding the Navy's drug policy of zero tolerance. On 14 September 1983, you received nonjudicial punishment (NJP) for the wrongful possession and use of marijuana. On 17 June 1983, you received NJP for being in an unauthorized absence (UA) status. On 27 June 1983, you were convicted by civilian criminal authorities of failure to appear, wearing of headset or earplugs, driving without a valid drivers license, driving under the influence, hit and run, and causing property damage. You were sentenced to a fine of \$600, ordered to attend alcohol rehabilitation center, and your driver's license was restricted for 90 days. On 13 October 1983, you received your third NJP for an additional UA period. On 22 December 1983, administrative discharge action was initiated by reason of misconduct (drug abuse). On 13 January 1984, a mental health evaluation was conducted and you were found to be psychologically dependent on marijuana. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be discharged under other than honorable

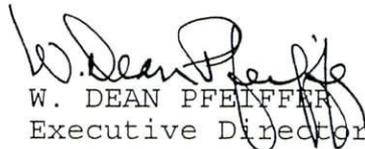
conditions (OTH) by reason of misconduct (drug abuse). The discharge authority directed the OTH discharge. On 27 January 1984, you received the OTH discharge due to misconduct (drug abuse). At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and prior honorable service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reason or characterization of your discharge given your record of three NJP's for misconduct and drug abuse (use). The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. An RE-4 reenlistment code is required when an individual is discharged due to misconduct such as drug abuse. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans' benefits that accrued during your first period of service. Whether or not you are eligible for benefits based on this period of service is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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