



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

TJR
Docket No: 6072-10
18 March 2011

[REDACTED]
[REDACTED]
[REDACTED] EDWAY OH 45341-9748

[REDACTED] Manning

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 15 March 2011. 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 reenlisted in the Navy on 12 July 1981 after nearly six years of prior honorable service. You served without disciplinary infraction until you began a period of unauthorized absence (UA) on 8 June 1994, at which time you were apprehended and held in confinement by Japanese civil authorities following a search for narcotics, specifically, marijuana, hashish, and lysergic acid diethylamide (LSD). On 7 September 1994 you were convicted by Japanese civil authorities of violation/illegal possession of the Hemp Control Law and Narcotics Control Law. You were sentenced to forced labor for two years, which was suspended for four years. Subsequently, you were returned to military custody, and on 16 September 1994, you received nonjudicial punishment (NJP) for a 90 day period of UA. The punishment imposed was reduction to paygrade E-3, extra duty for 45 days, and a \$1,288 forfeiture of pay.

On 21 September 1994 you were notified of pending administrative separation action by reason of misconduct due to the drug abuse, civil conviction, and commission of a serious offense. After

consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 6 October 1994 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 19 October 1994 your commanding officer also recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse, civil conviction, and commission of a serious offense. Subsequently, on 6 December 1994, the discharge authority approved these recommendations, and on 12 December 1994, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and desire to upgrade your discharge. 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 a civil conviction by Japanese authorities and a lengthy period of UA. Accordingly, your application has been denied.

The Board believes that under current regulations you may be eligible for veterans' benefits which accrued during your first period of service. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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