



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

SJN
Docket No: 11377-10
28 July 2011

[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 26 July 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.

On 12 March 1987, you reenlisted in the Navy after three years of honorable service. The Board found that you received nonjudicial punishment (NJP) for wrongful use of a controlled substance. You received a reduction in rate, a forfeiture of pay and restriction. On 12 October 1988, you were reinstated to paygrade E-5 due to your performance. However, on 6 February 1992, you received NJP for wrongful use of cocaine and received a reduction in paygrade. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug use. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 28 February 1992, a substance abuse report stated, in part, that you were found to be dependent on drugs, but amenable to drug rehabilitation. It was recommended that you be administratively separated and to receive treatment via a veterans' hospital prior to your separation from the service. Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. Your commanding officer stated, in part, that you were a promising performer and your previous command had thought enough of your performance to

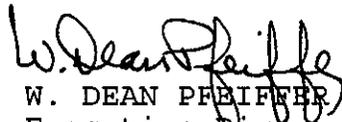
reinstate you after your first drug offense. On 28 March 1992, the discharge authority concurred and directed an OTH discharge by reason of misconduct due to drug use. You were so discharged on 22 June 1993.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your prior honorable service, record of your last period of service, post service accomplishments, character letters, and progress with your drug rehabilitation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your two NJP's for drug use, and the fact that you were given an opportunity to earn a better characterization of service when you were retained in the service after your first drug use. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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 either 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