



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

SJN
Docket No: 02220-11
10 January 2012

[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 5 January 2012. 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.

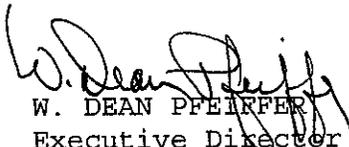
On 28 April 1989, you reenlisted in the Navy after serving over two years of honorable service. The Board found that you were convicted by special court-martial (SPCM) of three specifications of unauthorized absence (UA) totaling 39 days, two specifications of missing movement, and two specifications of wrongful use of cocaine. You were sentenced to confinement at hard labor, a forfeiture of pay, and a reduction in paygrade. The convening authority approved the sentence on 1 June 1990. Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You elected to consult counsel and have your case heard before an administrative discharge board (ADB). On 30 July 1990, the ADB recommended separation with an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. The ADB further recommended that the OTH discharge be suspended for a period of 12 months. On 14 August your commanding officer (CO) forwarded his recommendation concurring with the ADB's findings and recommendation for an OTH discharge, but did not concur in the ADB's recommendation that your discharge be suspended for 12 months. On 23 August 1990, the separation authority determined that you should be separated with an OTH discharge but directed that it be held in abeyance pending further observation of your conduct. On 27 August 1990, you were counseled and warned that at any time during

your probationary period, if you violated any of the terms of your probation, your CO was authorized to execute the OTH discharge. On 24 September 1990, you began a period of UA that lasted 310 days, ending on 31 July 1991. On 16 August 1991, your CO executed the discharge due to your violation of probation. You were so discharged on 22 August 1991.

The Board, in its review of your application, carefully weighed all potentially mitigating factors. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your SPCM conviction of very serious offenses, which included the wrongful use of cocaine. Moreover, you were given an opportunity to earn a better characterization of service when your OTH discharge was suspended for 12 months. Unfortunately, you then went UA for over 10 months. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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