



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

ELP
Docket No. 2339-01
10 August 2001

[REDACTED]

Dear [REDACTED]

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 Navy Records, sitting in executive session, considered your application on 8 August 2001. 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.

You enlisted in the Navy on 22 March 1982 for four years at age 18. The record reflects that you served without incident until 12 October 1982 when you received nonjudicial punishment (NJP) for a three day period of unauthorized absence (UA).

The record reflects that you served without further incident during the following 36 months and were advanced to MS3 (E-3). However, during the three month period from October to January 1986 you received three NJPs for two instances of absence from your appointed place of duty, a five-hour period of unauthorized absence, disobedience, use of cocaine and larceny.

On 30 January 1986 you were notified that action to administratively discharge you was being initiated by reason of misconduct due to drug abuse. You were advised of your procedural rights and told that if discharge was approved, it could be under other than honorable conditions. You declined to

consult with legal counsel and waived the right to present your case to an administrative discharge board (ADB). A subsequent medical officer's evaluation found you to be psychologically dependent on alcohol, but not physiologically dependent on drugs or alcohol. On 4 February 1986 the commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The Commander, Naval Military Personnel Command approved the recommendation and you were so discharged on 14 February 1986.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, letters of reference attesting to your good post-service conduct, your guardianship of your mother, and the supporting letter from your congressman. The Board noted your contention that the discharge adversely impacts your employment opportunities and since discharge, you have been in recovery for more than seven years with no drug use. The Board also noted your attorney's request that you be allowed to appear before a traveling panel near your home.

The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of four NJPs, one of which was using cocaine and larceny. The Board noted you had a period of three years in which you had no disciplinary actions and that you had nearly completed your enlistment when you were discharged. However, the Board also noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. You failed to learn from your first disciplinary actions and your continued misconduct demonstrated a willful disregard for Navy rules and regulations. The fact that your discharge negatively impacts on employment opportunities does not provide a valid basis for recharacterizing service. The Board concluded that the discharge was proper 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.

You are advised that this Board has no traveling panels at which you could appear. At one time, the Naval Discharge Review Board had traveling panels, but they were discontinued due to budgetary constraints. Personal appearances before this Board are rarely granted and only when, in executive session, the Board determines that a case cannot be resolved without the individual's presence, or the individual's appearance would serve some useful purpose. Your presence was not required for the Board to make a decision.

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