



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

TRG
Docket No: 5482-01
29 November 2001

[REDACTED]

Dear [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 27 November 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 25 September 1984 at age 19. On 15 August 1986 you received nonjudicial punishment (NJP) for disobedience. About 20 months later, on 29 April 1988, you received another NJP for use of LSD on four occasions. The punishment imposed included restriction, forfeitures of pay, and a reduction in rate from SHSN (E-3) to SHSA (E-2). In the last performance evaluation you were not recommended for advancement or retention in the Navy. You were released from active duty on 24 September 1988 with your service characterized as honorable. At that time you were not recommended for reenlistment and were assigned an RE-4 reenlistment code. Subsequently, you were issued an honorable discharge at the end of your military obligation.

In your application you are requesting that the NJP be removed from your record, that you be reinstated to SHSN, and that the reenlistment code be changed. You contend in your application that you were coerced into admitting the use of LSD because you were interrogated for eight hours without relief, and you then admitted using drugs only on one occasion. You believe, in effect, that the erroneous and unjust record is having an adverse

impact on your career in the National Guard and your civilian employment.

NJP evidence is routinely destroyed after two years. Therefore, the only documentation concerning this matter is the entry in the record showing that you received NJP for use of LSD. Normally, following an NJP for drug abuse, an individual would be processed for an administrative discharge, but there is no evidence of such processing in the record. However, it is clear that you were retained in the Navy until your release from active duty.

The Board is aware that during the NJP proceedings, you would have appeared before the commanding officer and been given an opportunity to withdraw any admission of guilt. However, the commanding officer apparently believed that a preponderance of the evidence showed that you committed the offense. As indicated, there is no evidence that the commanding officer abused his discretion when he imposed NJP or that the punishment imposed was too severe. Therefore, the Board concluded that the NJP should not be removed from your record and that it was sufficient to support the assignment of the RE-4 reenlistment code.

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

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The Veterans of Foreign Wars