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

TJR
Docket No: 3533-10
17 February 2011

[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 Naval Records, sitting in executive session, considered your application on 15 February 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 enlisted in the Navy on 23 June 1975 at age 19 and served for nearly two years without disciplinary incident. However, on 5 May 1977, you were convicted by special court-martial (SPCM) of wrongful possession, transfer, and sale of lysergic acid diethylamide (LSD), wrongfully attempting to possess, transfer, and sell 25 tablets of mescaline, and larceny of $62.50. You were sentenced to a $735 forfeiture of pay, reduction to paygrade E-1, confinement at hard labor for four months, and a bad conduct discharge (BCD). The BCD was suspended for six months.

On 22 June 1977 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB) and submit a statement of rebuttal to the separation. However, on 19 July 1977, you waived your right to an ADB in an agreement with your commanding officer for a recommendation of a general discharge. On 22 July 1977 your commanding officer recommended discharge under honorable conditions by reason of misconduct due to drug

abuse. On 4 August 1977 the discharge authority approved this recommendation and directed your commanding officer to issue you a general discharge under honorable conditions by reason of misconduct due to drug abuse, and on 12 August 1977, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, period of satisfactory service, and desire to change the characterization of 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 SPCM. The Board concluded that you were fortunate to receive a general discharge since a punitive discharge is normally issued when a Sailor is separated due to drug abuse. Accordingly, your application has been denied.

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

W. DEAN PFEIFFER
Executive Director