



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

RDZ:ecb
Docket No. 05527-10
12 August 2010

[REDACTED]

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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 10 August 2010. 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.

You enlisted in the Navy on 24 May 2001 at age 20. As part of your initial indoctrination processing you were fully briefed on the Navy's zero tolerance drug policy and the consequences for failure to adhere to that policy. Unfortunately on 16 September 2003 you were arrested by German civil authorities for possessing psychedelic drugs (mushrooms). On 9 October 2003 you were awarded nonjudicial punishment by naval authorities for possession of 50 grams of psychedelic drugs as well as one marijuana cigarette. Your punishment consisted of reduction in rank, forfeiture of \$721 per month for two months and 60 days of restriction.

In accordance with the Navy's established policy you were notified by your commanding officer that he was recommending you for administrative separation with an other than honorable discharge (OTH) due to your illegal possession of drugs. After conferring with a military lawyer you agreed to waive your right to appear before

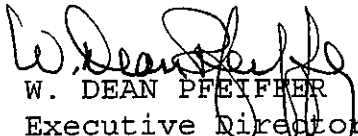
an administrative discharge board provided you received a general discharge and not an OTH. Your commanding officer agreed and you were issued a general discharge on 22 January 2004.

In its review of your application the Board concluded that in view of the serious nature of your offenses (drugs) which occurred after you were fully briefed on the Navy's zero tolerance drug policy your discharge was both legally proper and equitable. Equally important you requested and successfully negotiated with your commanding officer for the issuance of a general discharge rather than an OTH. In this regard the Board believed that you were indeed fortunate to have been issued a general discharge since sailors who illegally possess drugs are routinely issued an OTH.

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