



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2900-99

1 September 1999

[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 Naval Records, sitting in executive session, considered your application on 25 August 1999. 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.

The Board found that you enlisted in the Naval Reserve on 10 December 1993 for eight years at age 23. You were ordered active duty as an AN (E-3) for a period of 36 months on 27 December 1993. The following day you signed a statement that you had been briefed concerning the Navy's policy on Drug and Alcohol Abuse and understood the consequences of illegal drug use, the effects of illegal drugs on discipline and combat readiness, the consequences of drug trafficking, the physical and psychological effects of drug abuse, and the Navy's urinalysis screening program. On 31 December 1993, you were briefed on the Veterans' Education Assistance Act of 1984 (G.I. Bill) and informed that you must receive an honorable discharge in order to be entitled to benefits under the G.I. Bill. You were assigned to the fleet upon completion of recruit training.

The record reflects that you served without incident until 7 March 1995 when a Navy drug laboratory reported that you had tested positive for marijuana. On the same date, you signed a

statement indicating that on the evening of 14 February 1995, you left an "after-hours" bar with two civilian females who offered you a "hit" off of a rolled cigarette. You alleged that being under the influence of alcohol, you accepted.

On 23 March 1995 you received nonjudicial punishment (NJP) for use of marijuana. Punishment imposed consisted of forfeitures of \$458 per month for two months, reduction in rate to AA (E-2), and 45 days of restriction and extra duty.

On 12 June 1995 you were notified that discharge under other than honorable conditions was being considered by reason of misconduct due to drug abuse. You were referred for a drug and alcohol dependency screening on 21 June 1995. A medical officer determined that you were not dependent on drugs or alcohol, but had engaged in ill-advised alcohol abuse. Thereafter, you were advised of your procedural rights and, after consulting with counsel, elected to appear before an administrative discharge board (ADB). On 13 November 1995, an ADB found that you had committed misconduct due to drug abuse and recommended separation with a general discharge. The commanding officer concurred with the ADB findings and, on 17 January 1996, the Chief of Naval Personnel directed a general discharge by reason of misconduct. You were so discharged on 19 January 1996.

On 9 December 1996, the Naval Discharge Review Board denied your request for changes in the characterization of service and the reason for discharge.

In its review of your application, the Board conducted a careful search of your service record for any mitigating factors which might warrant a recharacterization of your general discharge. However, no justification for such a change could be found. The Board noted the issues you presented to the NDRB, your statement expressing regret for the mistake which led to your discharge, the letter of reference, and the letter certifying your successful completion of an intensive outpatient rehabilitation program. However, the Board further noted that at the time of your enlistment you were older than the average recruit and a high school graduate with average intelligence. It appeared to the Board that you possessed all the requisite skills for successfully completing your period of active duty. The record also indicates that you were well aware of the consequences of using illegal drugs. The Board believed that you were fortunate that the ADB recommended you for a general discharge since most individuals separated for using drugs are discharged under other than honorable conditions. The fact that educational benefits are denied because of your discharge does not provide a valid basis for recharacterizing service. Your administrative separation was accomplished in compliance with applicable regulations. There is no indication that any procedural errors

jeopardized your rights. 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.

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