



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD SUITE 1001
ARLINGTON VA 22204-2490

BAN
Docket No: 11864-11
29 November 2012

[REDACTED]

[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 29 November 2012. 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 entered active duty in the Navy on 6 January 1978, and served without disciplinary incident until 5 June 1979, when you received nonjudicial punishment (NJP) for an unauthorized absence (UA) and disobeying a lawful order. Shortly thereafter, you received the following disciplinary actions: on 19 July 1979, you received NJP for wrongful use of a meal pass with the intent to defraud; on 25 April 1980, you received NJP for UA; on 23 January 1981, you received NJP for UA in excess of 41 days and larceny; on 10 February 1981, you received NJP for the wrongful possession of a controlled substance (marijuana); and on 10 August 1981, you received NJP for two specifications of UA. On 24 August 1981, you were recommended for separation with an honorable discharge. However, on 20 October 1981, you were convicted at a summary court-martial (SCM) of two specifications of UA in excess of 19 days. You were then recommended for separation with an other

than honorable (OTH) discharge due to your frequent involvement of a discreditable nature. You waived your rights to counsel and an administrative discharge board (ADB). The separation authority approved the recommendation, and on 5 November 1981, you were separated with an OTH discharge due to misconduct and an RE-4 (not recommended for retention) reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, claim that your father was ill, that you applied for a hardship discharge that was denied, and that your punishment was too harsh. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to your discharge due to your misconduct. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention, or a better characterization of service. Finally, there is no provision of law or in Navy regulations that allow for a change to your discharge due solely to the passage of time. 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,



BRIAN J. GEORGE
Head, Discharge Section