



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

SJN
Docket No: 2733-14
13 August 2014

[REDACTED]

[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 12 August 2014. 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.

The Board found that on 12 February 2013, you received nonjudicial punishment (NJP) for wrongful use of marijuana. You received restriction and a reduction in paygrade. It appears you did not submit an appeal to your commanding officer's (CO) decision. Based on the documentation submitted with your application, on 25 June 2013, an administrative discharge board (ADB) found that the preponderance of the evidence did not support the basis for you to be separated from the Navy. Additionally, you state that your request to have your NJP set aside based on the findings of your ADB was denied by your CO.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as the ADB's finding that by a preponderance of the evidence did not find that you committed misconduct. Nevertheless, the Board concluded this factor was not sufficient to remove the NJP from your official records given the facts that you were found guilty and your

request to set it aside was denied by your CO. Additionally, it is important to keep in mind that NJP and ADB were two separate fact finding processes, and the decision of the latter does not cancel the findings of the former. This is especially true in your case because the CO's decision to impose NJP was based on facts and circumstances surrounding the incident, and the fact that he did not consider the contrary finding of the ADB or the opinions of additional witnesses to be any more persuasive than his own initial inquiry into the matter. The Board concluded that your CO's decision to impose NJP was appropriate, and it was administratively and procedurally correct as written and filed. The Board further concluded that removing it would be unfair to your peers, against whom you will compete for promotions and assignments. 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,



ROBERT D. ZSALMAN
Acting Executive Director