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

TAL
Docket No: 11437-14
7 January 2016

5 U.S.C. 552(b)(6)

Dear 5 U.S.C. 552(b)(6):

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 November 2015. 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 Marine Corps and began a period of active duty on 17 August 1993. You served for three years and two months without disciplinary incident, but on 10 December 1996, you received nonjudicial punishment (NJP) for wrongful use of marijuana.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to drug abuse at which time you waived your procedural right to present your case to an administrative discharge board (ADB). Your commanding officer

recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 28 February 1997, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in wrongful drug use in light of the Navy's policy of "zero tolerance." Further, the record clearly shows that when you were given an opportunity to defend yourself against this charge, you waived your right to present your case to an ADB. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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 within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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,

[redacted] 5 U.S.C. 552(b) (6)

MAR 1 2016

SCOTT F. THOMPSON
Executive Director