



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

[REDACTED]  
Docket No: 3228-16  
MAY 30 2017


[REDACTED]  
Dear [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.

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 7 March 2017. 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.

You enlisted in the Marine Corps and begin a period of active duty on 5 May 1995. On 5 November 1997, you were convicted by summary court-martial (SCM) of wrongful use of cocaine. Subsequently, on 1 December 1997, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After you consulted with counsel and waived your procedural rights, your commanding officer recommended discharge under other than honorable (OTH) 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. On 20 March 1998, you were discharged.


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 carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and contention that your discharge was unjust because you served during war time. The Board concluded that the severity of your misconduct, which resulted in a SCM, outweighed your desire to upgrade your discharge. The Board also was not persuaded by the contention that your discharge was unjust because you served during war time. The Board noted that the record shows that you were notified of and waived your procedural right to present your case to an administrative

  
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board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. 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. New evidence is evidence 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,

  
Executive Director