



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

[REDACTED]  
Docket No: 4008-16

JUN 20 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 18 April 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 reenlisted in the Marine Corps on 20 July 1984. On 5 March 1990, you submitted a written request for discharge for the good of the service to avoid trial by court-martial for wrongful use of cocaine. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and your commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 30 April 1990, you were issued an other than honorable (OTH) 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 character letters, criminal arrest record, your desire to upgrade your discharge and contention that one incident lead to your discharge and your OTH is not consistence with your prior service. However, the Board found that these factors were not sufficient to warrant relief in your case given your misconduct. In this regard, the Board concluded that seriousness of your drug related misconduct, outweighed your

desire to upgrade your discharge. The Board also was not persuaded by the contention that one incident lead to your discharge and your OTH is not consistent with your prior service. It is a fundamental tenet of military administrative law that a Marine's service is characterized based on his record in the current enlistment. The Board also believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Accordingly, your application has been denied.

The Board believes that you may be eligible for veterans' benefits which accrued during your prior periods of service. However, your eligibility is a matter under the cognizance of the Department of Veteran Affairs (DVA). In this regard, you should contact the nearest DVA office concerning your rights, specifically, whether or not you are eligible for benefits based on these other periods of service.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the 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,

[REDACTED]

Executive Director