



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

[REDACTED]
Docket No: 4060-16/
6415-11

MAR 21 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your latest reconsideration request received on 5 May 2016. You previously petitioned the Board and were advised in our letter dated 13 March 2012 that your application had been disapproved. Your case was reconsidered in accordance with Board for Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F.Supp.2d 48 (D.D.C. 2004).

Your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records, sitting in executive session on 19 January 2017. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your application and any material submitted in support of your application.

Regarding your request for a personal appearance, Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

After careful and conscientious consideration of the entire record, the Board determined your new statement was insufficient to establish the existence of probable material error or injustice.

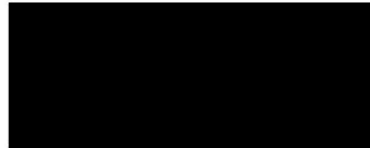
The Board gave liberal consideration to your new statement and your contentions that the disciplinary action assessed against you was due to your race and in retaliation to you voicing your concerns about race discrimination. The Board also considered your contention that the Marine Corps fraudulently represented that your discharge status would automatically be updated to a general under honorable conditions characterization after six months. Additionally, the Board considered your contention that the urinalysis results documenting your 1985 drug use were covered up because they did not support special court-martial charges. However, the Board noted that there is no evidence in your record to support your contentions of race discrimination, retaliation, or misrepresentation of urinalysis evidence. Additionally, the Board found that you waived your procedural right to an administrative discharge board. In doing so, you gave up your first and best opportunity for retention or a better characterization of service. Finally, there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge

upgrade due solely to the passage of time. Accordingly, the Board concurs with the previous Board decision and your application must again be 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 prior to making its decision in your case. In the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

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