



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

Docket No: 4260-16

MAY 22 2017

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 15 February 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 Navy and began a period of active duty on 3 April 1989. During the period from 22 November 1989 to 17 April 1990, you received four nonjudicial punishments (NJP) for wrongful use of marijuana and methamphetamine, unauthorized absence and breaking restriction. Subsequently, you were notified of administrative separation by reason of misconduct due to drug abuse, at which time you waived your right to consult with counsel and to present your case to an administrative discharge board (ADB). The Commanding Officer recommended administrative discharge with an Other Than Honorable (OTH) discharge. The discharge authority approved this recommendation and directed discharge by reason of misconduct due to drug abuse with an OTH discharge. On 1 May 1990, you were so 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, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your contention that your service was under honorable or General conditions, your training records reflect exceptional performance, you want to establish eligibility for benefits and your assertion that you received an Honorable discharge from the Army. The Board concluded these factors were not sufficient to warrant relief in your case given

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the seriousness of your repeated misconduct, which included two offenses of the wrongful use of a controlled substance. Further, the Board noted that the record reflects that you were notified of and waived your procedural right to present your case to an 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