



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

[REDACTED]  
Docket No: 4347-16

APR 12 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 2 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.

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, began a period of active duty, and served for three years and six months without disciplinary incident. On 28 August 2010, you were convicted in civilian court of a 3<sup>rd</sup> degree drug felony (delivery of marijuana in a drug free school zone) and carrying an unlicensed handgun.


Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. After you waived your procedural rights, your Commanding Officer recommended discharge under other than honorable conditions (OTH) by reason of misconduct. The discharge authority approved this recommendation, directed an OTH separation by reason of misconduct, and assigned an RE-4 (not recommended for reenlistment) reentry code. Although your discharge certificate from the Marine Corps Reserve was not available in your record, on 8 June 2011, the separation authority directed separation with an OTH within 20 days.

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The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors such as your divorce, high physical fitness test score, and service as an "all-around stellar marine," your post-service conduct, your good character letters, your desire to change your reentry code, and your contention that you deserve a second chance because you have corrected all your mistakes. The Board also considered your desire to reenlist in the Marine Corps Reserve and attend Fire Academy so you can serve as a fire fighter. However, the Board was unable to consider your participation in charitable events and the list of rehabilitation, churches, and events at which you have shared your story because these enclosures, which you listed on your DD Form 149, were not included in your submission. Unfortunately, the Board concluded these mitigating factors and your post-service record were not sufficient to warrant relief in your case because an RE-4 reentry code is required when an individual is separated for misconduct. Thus, your RE-4 code was authorized in accordance with established regulations and guidelines at the time of your discharge. Further, once a reentry code is correctly assigned, it is not routinely changed or upgraded as a result of events that occur after separation or based merely on 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 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,

  
Executive Director