



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

[REDACTED]
Docket No: 6506-16

OCT 10 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 19 July 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, relevant portions of your naval record and applicable statutes, regulations and policies.

You enlisted in the Navy and began a period of active duty on 14 August 1990. You served for a year and six months without disciplinary incident, but on 3 February 1992, you received nonjudicial punishment (NJP) for failure to obey a lawful general regulation, absence from your appointed place of duty and wrongful use of marijuana. Subsequently, you were notified of pending administrative separation by reason of misconduct due to drug abuse at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to drug abuse. The discharge authority directed an OTH discharge due to misconduct. On 9 March 1992, 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 and your contention that a Bi-polar condition was emerging while in service and your discharge should be general or honorable. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in an NJP and wrongful drug use in light of the

seriousness of your misconduct that resulted in an NJP and wrongful drug use in light of the Navy's policy of "zero tolerance" on drug use. Further, the Board noted that the record shows 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. In regard to your contention, the Board noted that there is no evidence in your record, and you submitted none, to support your contention that you were suffering with a Bi-polar condition. 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,

[REDACTED]

Executive Director