



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

[REDACTED]
Docket No: 6601-16

OCT 30 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 29 August 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.

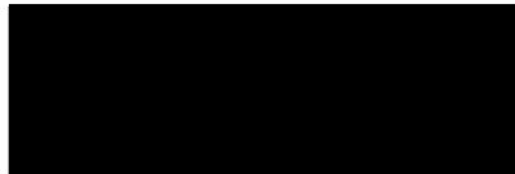
You enlisted in the Navy on 18 March 1991. On 24 August 1992, you received nonjudicial punishment (NJP) for wrongful use of marijuana. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After you waived your procedural rights, your Commanding Officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 30 September 1994, 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, such as your desire to upgrade your discharge and contentions that you made only one mistake out of 42 months of service, the Navy did not perform a test on the substance in your possession, and it has been 22 years since your discharge. However, the Board concluded these factors were not sufficient to warrant relief in your case given your misconduct. In this regard, the Board concluded that your drug use, which resulted in NJP and violation of the Navy's zero-tolerance drug policy, outweighed your desire to upgrade your discharge. The Board noted that the record shows that you were notified of and

waived your procedural right to present your case to an Administrative Discharge Board. In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. The Board also noted that there is no provision in law or regulations that allows for re-characterization of a discharge automatically after 22 years, due solely to 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,

A large black rectangular box redacting the signature of the Executive Director.

Executive Director