



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

[REDACTED]
Docket No: 6609-16

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 22 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 Marine Corps on 4 August 1992. During the period from 15 July 1993 to 25 January 1994, you received warning counselings for the following offenses: two specifications of abusing alcohol, writing bad checks, drinking under age, and conduct unbecoming of a Marine. On 13 August 1994, you were charged with driving under the influence (DUI) and underage drinking. On 25 August 1994, you received a second DUI which involved an accident that injured another Marine. During the period from 6 October 1984 to 28 August 1995, you received two nonjudicial punishments (NJP) for drunk and disorderly and missing unit movement. You were also convicted by Summary Court-Martial (SCM) of wrongful use of methamphetamine. 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 29 September 1995, you were discharged.

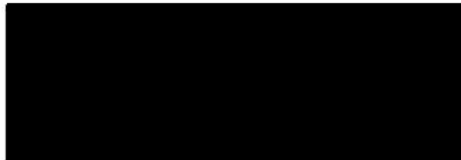
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The

Board carefully weighed all potentially mitigating factors, such your desire to upgrade your discharge and contentions that the Marine Corps did not assist with rehabilitating your knee which lead to your drug use and you need Department of Veteran Affairs (DVA) benefits. 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 the severity of your drug and alcohol abuse, outweighed your desire to upgrade your discharge. The Board was not persuaded by the unsubstantiated contention that the Marine Corps did not assist with rehabilitating your knee which lead to your drug use. The Board noted that the record shows that you were notified of and waived your procedural right to present your case to an administrative board (ADB). 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 you successfully completed Level II of the Navy's substance abuse program, but failed to enroll into Level III program due to not admitting you had an alcohol problem. Accordingly, your application has been denied.

In regard to your contention that you need DVA benefits, the Board noted whether or not you are eligible for benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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 redaction box covering the signature of the Executive Director.

Executive Director