



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

[REDACTED]  
Docket No: 6863-16

OCT 31 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 were commissioned in the Navy on 14 March 1980. On 11 August 1986, you tested positive for cocaine during a directed random urinalysis. Subsequently, charges were preferred to nonjudicial punishment (NJP) for wrongful use of cocaine. On 25 September 1986, you submitted a written request for discharge for the good of the service to avoid trial by court-martial for wrongful use of cocaine. Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your Commanding Officer recommended your request be denied and the discharge authority approved this recommendation on 8 November 1986. However, on 15 December 1986, the Department of the Navy, Navy Personnel Command (BUPERS) recommended to the Secretary of the Navy (SECNAV) that your request be granted. On 22 December 1986, SECNAV approved your request and directed you be issued an Other Than Honorable (OTH) discharge by reason of misconduct due to drug abuse in lieu of trial by court martial. On 11 March 1987, 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 character letters, post service conduct, your desire to upgrade your discharge and contention that you received inadequate counsel. However, the Board concluded these factors were not sufficient to warrant relief in your case given your drug related misconduct. In this regard, the Board concluded that the severity of your drug related misconduct, which resulted in your request to be discharged in lieu of trial by court-martial, outweighed your desire to upgrade your discharge. Contrary to your contention that you received inadequate counsel, the Board noted that the record shows that on 25 September 1986, you stated you were completely satisfied with the counsel you received. In the end, the Board determined that your misconduct was too serious to warrant upgrading your discharge. 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 redaction box covering the signature of the Executive Director.

Executive Director