



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

[REDACTED]
Docket No: 7348-16
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 30 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 and began a period of active duty on 23 July 1986. On 5 August 1986, you were granted a waiver and retained in the Navy after testing positive during a drug urinalysis in recruit training. You were advised a second drug abuse incident would result in immediate processing for separation from the naval service. You served for a year and seven months without disciplinary incident, but during the period from 25 March 1988 to 6 September 1988, you received nonjudicial punishment (NJP), on two occasions for absence from your appointed place of duty, making a false official statement 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 conditions by reason of misconduct due to drug abuse. The discharge authority approved the recommendation and directed separation under other than honorable conditions by reason of misconduct and on 4 October 1988, 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 desire to be eligible to apply for veterans benefits. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in two NJPs and wrongful drug use in light of the Navy's policy of "zero tolerance." Further, you were given an opportunity to defend your actions, but waived your procedural rights. Accordingly, your application has been denied.

Regarding your concern about eligibility for veteran's benefits whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of DVA concerning your right to apply for benefits or appeal an earlier unfavorable determination.

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