



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

[REDACTED]
Docket No: 7352-16

NOV 2 8 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 September 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.

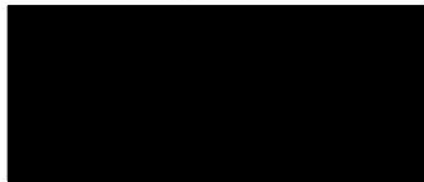
You reenlisted in the Navy on 22 May 1987. On 17 May 1995, you received nonjudicial punishment (NJP) for the following offences: making a false official statement, larceny, and wrongful use of marijuana. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug abuse. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB found that you committed misconduct due commission of serious offences as well as drug abuse and recommended you receive an other than honorable (OTH) discharge. The separation authority concurred and directed an OTH discharge by reason of misconduct. On 22 September 1995, you were discharged with an other than honorable characterization of service.

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 were told your discharge would be upgraded after six months if you stayed out of trouble and you have been trouble free 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 the severity of your drug abuse, which resulted in NJP, outweighed your desire to upgrade your discharge. The Board also was not persuaded by the contention that you were told your discharge would be upgraded after six months if you stayed out of trouble. There is no provision in law or regulations that allows for re-characterization of a discharge automatically after six months, due solely to the passage of time. The Board also noted while commendable, staying trouble free since your discharge does not alter your conduct while enlisted in the Navy or the basis for your discharge. 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,



Executive Director