



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

[REDACTED]
Docket No: 7447-16

NOV 07 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 26 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 enlisted in the Navy on 5 April 1989. On 10 January 1991, you admitted to Navy Investigative Services (NIS) that you committed the following offences: theft of personal property, theft of government funds, and forgery. On 14 March 1991, you submitted a written request for discharge for the good of the service to avoid trial by court-martial for the following offences: larceny from the US Government, wrongfully receiving stolen property, wrongfully impeding an investigation of theft and forgery, and wrongfully disposing of \$200.00 to prevent seizure. 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 request was granted and your Commanding Officer was directed to issue an other than honorable (OTH) discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction, as well as the potential penalties of a punitive discharge. On 13 May 1991, you were discharged.

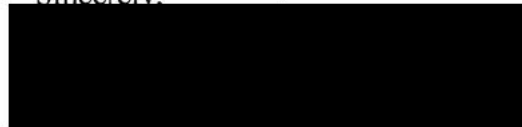
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as character letters, post service conduct, your desire to upgrade your discharge, your difficult personal issues at the time of your conduct, and your contention that you were discharged due to being falsely accused of stealing

money. However, the Board found that these factors were not sufficient to warrant relief in your case, given your misconduct.

In this regard, the Board concluded that seriousness of your misconduct outweighed your desire to upgrade your discharge. The Board noted that the record contains documented evidence which is contrary to your contention that you were discharged due to being falsely accused of stealing money. The record clearly shows you admitted to NIS that you stole personal property, government funds, and were guilty of forgery. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Finally, the Board noted you received the benefit of your bargain with the Navy when your request for discharge was granted and that your discharge should not be changed now. 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