



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

[REDACTED]
Docket No: 7555-16
NOV 3 7 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.

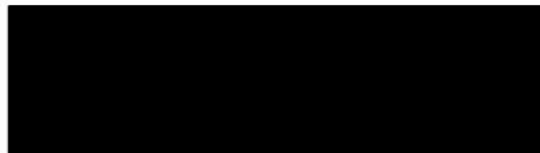
You enlisted in the Navy on 21 December 1992. On 22 February 1994, you received nonjudicial punishment (NJP) for unauthorized absence (UA) totaling 72 days and disobeying a lawful order from a superior officer. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time, you were advised of your rights, which included the right to confer with a qualified military attorney and present your case to an Administrative Discharge Board (ADB). After consulting with a military attorney, you elected to waive your rights, including your right to present your case to an ADB. Your commanding officer recommended an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 23 March 1994, 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 your contentions that you went UA to take parental control of your kids after a divorce and it has been 20 years since your discharge. However, the Board concluded that

these factors were not sufficient to warrant relief in your case, given your misconduct. In this regard, the Board concluded the severity of your misconduct, which resulted in a lengthy period of UA, outweighed your desire to upgrade your discharge. The Board was not persuaded by the unsubstantiated contention that you went UA to take parental control of your kids after a divorce. The Board noted that there is no evidence in the record, and you provided none, to support your contention. The Board also noted that there is no provision in law or regulations that allows for re-characterization of a discharge automatically after 20 years, due solely to the passage of time. 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