



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

Docket No: 7618-16
NOV 07 2017

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 24 September 1981. During the period from 12 January 1982 to 20 March 1985, you received five nonjudicial punishments (NJP) for the following offenses: possession of marijuana, failure to obey a lawful order, four specifications of unauthorized absence (UA) totaling 19 days, 21 specifications of being absent from your appointed place of duty, failure to go to appointed place of duty, willful disobeying a superior petty officer, insubordinate conduct toward a petty officer, violation of a lawful general order, communicating a threat, and wrongful use of marijuana. Subsequently, you were notified of pending administrative separation action by reason of misconduct due a pattern of misconduct. After you waived your procedural rights, your Commanding Officer (CO) recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct. On 20 August 1985, you received NJP for two specifications of UA totaling six hours. On 13 September 1985, the discharge authority approved your CO's recommendation and directed separation under other than honorable conditions by reason of misconduct.

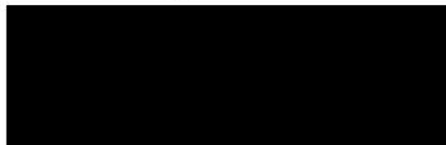
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and contention that your CO advised you to smoke marijuana in order to be discharged. 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 six NJPs, outweighed your desire to upgrade your discharge. The Board was not persuaded by the contention that your CO advised you to smoke marijuana. The Board noted that there is no evidence in your record, and you submitted none, to support your contention. Accordingly, your application has been denied.

Regarding your contention that you need benefits from the DVA, whether or not you are eligible for benefits is a matter under the cognizance of the DVA. You should contact the nearest office of the DVA concerning your right to apply for benefits. If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon 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