



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

[REDACTED]
Docket No: 7654-16

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 20 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 and began a period of active duty on 22 October 1974. You served for about a year and six months without disciplinary incident, but during the period from 21 April 1976 to 8 July 1976, you received nonjudicial punishment (NJP) and were convicted by special court-martial (SPCM). Your offenses were wrongful possession of hashish oil, assault, absence from your appointed place of duty and failure to obey a lawful order. Subsequently, you were notified of pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature 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 honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature. The discharge authority approved this recommendation and directed separation under honorable conditions by reason of misconduct and, on 19 July 1976, you were discharged.

After careful and conscientious consideration of the entire record and application, 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 request to upgrade your discharge to honorable. The Board found that these factors were not sufficient to warrant relief in your case because of your repeated misconduct that resulted in an NJP and an SPCM. 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