



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

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Docket No: 0850-20
Ref: Signature date

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Dear ■

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied. Although the circumstances of your case are such that favorable action cannot be taken, please note the U.S. Department of Veterans Affairs (DVA) offers assistance to all veterans through their Veterans Crisis Line at <https://www.veteranscrisisline.net/>. Additionally, whether or not an individual is entitled to veterans' benefits is a matter under the cognizance of the DVA. If benefits have been denied, you may be able to appeal the denial under procedures established by the DVA.

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 5 October 2020. 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 9 August 2001. On 16 April 2003, nonjudicial punishment (NJP) was imposed on you for wrongful use of a controlled substance. On 29 April 2003, NJP was imposed on you for insubordination towards a petty officer and failure to obey an order or regulation. On 3 June 2003, NJP was imposed on you for wrongful use of a controlled substance. Subsequently, administrative separation action by reason of wrongful use of a controlled substance was initiated against you. On 3 June 2003, you waived your right to counsel and an administrative board. On 17 June 2003, your commanding officer recommended administrative separation with an under other than honorable conditions (OTH) discharge. On 20 June 2003, the separation authority directed your administrative separation with an OTH discharge. On 23 June 2003, you were separated with an OTH discharge.

You requested an upgrade of your discharge to general. You stated the aunt and uncle who raised you died, and that you started smoking “weed” because of the stress. You also stated in your petition to the Naval Discharge and Review Board that your mom and dad died within three months of each other. You indicated you need to be seen by the Veterans Affairs psychiatric ward because you tried to kill yourself, but you cannot be seen by the VA unless your discharge is updated. You also asserted that your discharge was supposed to be upgraded six months after discharge. After careful consideration of your petition, the Board concluded these factors and assertions were not sufficient to warrant a change to your discharge given your misconduct which resulted in three NJPs.

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 matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

12/11/2020

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Executive Director

Signed by: █