



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: 6558-20

Ref: Signature Date

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 was denied.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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, sitting in executive session, considered your application on 26 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 20 September 2000. On 30 October 2003, nonjudicial punishment (NJP) was imposed on you for Wrongful Use of a Controlled Substance. Subsequently, administrative separation action by reason of Misconduct due to Drug Abuse was initiated against you. On 30 October 2003, you waived your right to counsel and to an administrative board. On 31 October 2003, your Commanding Officer recommended you be administratively separated with an Other than Honorable (OTH) characterization of service. On 3 November 2003, the Separation Authority directed your administrative separation with an OTH characterization of service, and on 7 November 2003, you were so separated.

You requested an upgrade of your discharge to Honorable. You stated you want the discharge changed to Honorable, to have your GI Bill reinstated, and you want access to benefits from Veterans Affairs. You asserted that your ex-wife said she started putting marijuana in the food for seasoning. You also asserted you asked her to write a statement, but she didn't want to incriminate herself. Finally, you asserted you never knowingly smoked or consumed marijuana while in the Navy and deserve to have your discharge upgraded.

The Board concluded these factors and assertions were not sufficient to warrant a change to your discharge status, given your misconduct, which resulted in NJP for drug use. The Board noted that you produced no evidence to support your assertions that marijuana was placed in your food. The Board further noted that you waived your rights with regard to discharge proceedings. By doing so, you waived your first, and best, opportunity to advocate for retention, or a more favorable characterization of service.

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,

12/13/2020

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Executive Director

Signed by: █