




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


Docket No: 3562-16
MAY 11 2017




Dear 

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 1 February 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, your naval record, and applicable statutes, regulations, and policies.

In regard to your request for a personal appearance, be advised that the Board regulations state personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of the record.


You enlisted in the Navy and began a period of active duty on 28 September 1973. During the period from 25 February 1975 to 16 July 1976, you received three nonjudicial punishment (NJP) for assault, breaking restriction and 25 days of unauthorized absence. On 3 September 1975, you were convicted by a special court martial (SPCM) of wrongfully possessing methamphetamine, methaqualone (Quaaludes) and cocaine. You were sentenced to a bad conduct discharge (BCD), forfeiture of pay and confinement. On 17 September 1976, you submitted a voluntary request for an immediate administrative discharge from the naval service, in lieu of waiting for your administrative discharge to be final. The Commanding Officer granted your request, and on 17 September 1976 you were discharged with a BCD.


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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, in its review of your record and application, carefully weighed all potentially mitigating factors, such as your contention that the punishment was cruel and unjust and that you were a young man introduced to drugs and racial discrimination. The Board concluded these factors were not sufficient to warrant relief in your case given your misconduct. Regarding your contention of racial discrimination, the Board noted there was no evidence in your record and you did not provide any to support your contention. Accordingly, your application has been denied.

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