



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

[REDACTED]
Docket No: 3892-16

JUN 20 2017

[REDACTED]
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 18 April 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.

You enlisted in the Navy on 2 April 1976. During the period from 17 January 1978 to 22 February 1979, you received six nonjudicial punishments (NJP), for the following offenses: three specifications of being absent from appointed place of duty, three specifications of disobeying a lawful order, disobeying a lawful regulation, unauthorized absence (UA) on three separate occasions for 29 days, possession of alcohol aboard a Naval Vessel, possession of drug paraphernalia, and possession of marijuana. Subsequently, you were notified of pending administrative separation by reason of misconduct due to frequent involvement with military authorities. After you waived your procedural rights, your Commanding Officer recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to frequent involvement with military authorities. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 2 April 1979, you were discharged.

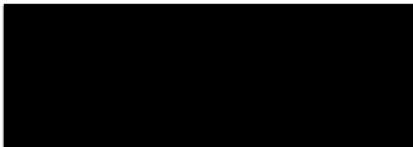
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and assertion that you would like to receive Department of Veterans Affairs (DVA)

benefits for the three years you served on active duty. The Board concluded that these factors were not sufficient to warrant relief given your misconduct. In this regard, the Board concluded that the seriousness of your repetitive misconduct, which resulted in six NJPs, outweighed your desire to upgrade your discharge and clearly supports the Commanding Officer's decision to issue you an OTH discharge. The Board was also not persuaded by your assertion that you would like to receive DVA benefits for the three years you served on active duty. The Board noted that a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. In regards to your case, you were provided the most appropriated discharge based on your situation. Accordingly, your application has been denied.

The Board believes that under current regulations you may be eligible for veterans' benefits. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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