



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

[REDACTED]  
Docket No: 4045-16  
SEP 27 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 12 June 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 began a period of active duty Navy on 4 April 1989. You served approximately a year and a half without disciplinary incident. On 18 January 1990, you received nonjudicial punishment (NJP) for violation of the Uniform Code of Military Justice (Article 112a, possession and use of a controlled substance) in the Marine Corps in February 1989. You were notified of administrative separation proceedings against you on the basis of drug abuse, and on 12 March 1990, you appeared before an administrative separation board. The administrative separation board found by unanimous vote (3 to 0), that you possessed and used marijuana. You were recommended for separation from the Navy with an other than honorable characterization of service. Officer in Charge, Personnel Support Activity Detachment concurred with the board's recommendation and although you were an excellent performer, you admitted to the wrongful use of a controlled substance. You were discharged from the Navy on 18 May 1990, with an other than honorable characterization of service.

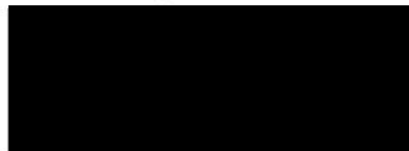
The Board considered your request for an upgrade to your other than honorable discharge characterization. When making its determination, the Board noted that you believe your discharge to be unjust because you state you were released on the basis of misconduct (drug

abuse), but that you did not test positive for drug usage during your time in the military. You further state that you were not able to address the injustice at the time of your discharge because of your youth and your inexperience.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material or injustice. The Board carefully weighed all potentially mitigating factors, such as your youth and inexperience. The Board also considered your contention that since you did not have a positive urinalysis during your time in the Navy your discharge should be upgraded. The Board noted that you were found guilty at NJP proceedings of possession and use, and that the allegations made against you were made after a controlled substance was found in your Bachelor Enlisted Quarters room and after you admitted to smoking marijuana in November 1990. The Board also noted that you appeared before an administrative discharge board and had the opportunity to present evidence against the basis for separation (misconduct (drug abuse)) at that board. The administrative separation board unanimously found that you both possessed and used a controlled substance. In consideration of the findings at NJP and by the administrative separation board, and in light of your own admission to drug use, the Board concluded that the separation basis of misconduct (drug abuse) was neither erroneous nor unjust. The Board found that the absence of a positive urinalysis is irrelevant to the finding of misconduct for possession. The Board did consider the absence of a positive urinalysis in consideration of the finding of guilt for drug use, but determined that your admission of drug use in November 1990, was sufficient grounds to find you guilty of wrongful use at both NJP and the administrative separation board. 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