



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

[REDACTED]
Docket No: 4329-16
JUN 07 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 22 March 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 and began a period of active duty on 7 January 1974. You served for a year and a month without disciplinary incident, but during the period from 30 March 1975 to 13 February 1976, you received nonjudicial punishment (NJP) one occasion, and were convicted by summary court-martial (SCM) and special court-martial (SPCM). Your offenses were possession of hashish and unauthorized absence from your unit for periods totaling 79 days. Subsequently, you were notified of pending administrative separation by reason of misconduct due to drug abuse at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved a general characterization of service by reason of misconduct, and on 19 March 1976, 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, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your contention that you did not consult with anyone other than your

lawyer, no counseling was provided as to your options on staying in the Navy and completing your contract. The Board found that these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in an NJP, an SCM, an SPCM and drug use. The Board also believed that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when a Sailor is separated for misconduct. In regard to your contention, the Board noted that you waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB), which was your chance for counseling, retention, and opportunity to earn a better characterization of service. 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