



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

[REDACTED]
Docket No: 6607-16
OCT 31 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 16 August 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 19 September 1980. You were granted a waiver for pre-service drug abuse and disavowed any future drug usage. You served for a year and about two months without disciplinary incident, but during the period from 15 November 1981 to 6 July 1983, you received nonjudicial punishment (NJP) on three occasions. Your offenses were larceny, failure to go to your appointed place of duty and wrongful use of marijuana. 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 other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved the recommendation and directed separation under other than honorable conditions by reason of misconduct and on 12 September 1983, 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 and your claim that you only had one dirty urinalysis and the commanding officer wanted to make an example of you, and contention that your counsel told you your characterization would automatically change to general in a year. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in three NJPs, and wrongful drug use in light of the Navy's policy of "zero tolerance." Further, you were given an opportunity to defend your actions, but waived your procedural rights. In regard to your contention, there is no provision of law or in Navy regulations that automatically allows for recharacterization of service after a year. 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,

[REDACTED]
Executive Director