



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

[REDACTED]
Docket No: 7679-16

NOV 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 20 September 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.

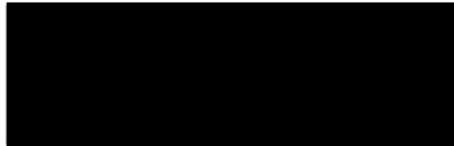
You enlisted in the Navy and began a period of active duty on 20 April 1994. You served for just over year without disciplinary incident but on 15 May 1995, you received nonjudicial punishment (NJP) for wrongful use of cocaine. On 16 May 1995, you tested positive for wrongful cocaine use. It was recommended that you attend a Level I Drug Rehabilitation Treatment program. Subsequently, you were notified of pending administrative separation by reason of misconduct due to drug abuse. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 18 July 1995, the ADB found that you committed misconduct and recommended that you be separated with an other than honorable (OTH) characterization of service. The separation authority agreed with the finding and recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct and on 27 September 1995, 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 contentions that you were not afforded the opportunity due to the "Zero Tolerance" policy on drug use to explain why you were coming up positive, which was

because of the Tylenol III that was being prescribed by the medical facility on base and your desire to file a VA claim for issues you were treated for while in the Navy. Your contentions are unsupported in your record and you provided no evidence to support your contentions. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in wrongful use of cocaine in light of the Navy's policy of "zero tolerance." 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