



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

[REDACTED]
Docket No: 8187-16
NOV 29 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 17 October 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.

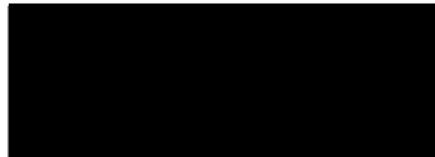
You enlisted in the Navy on 17 April 1985. On 9 September 1988, you were convicted by civil authorities of grand theft auto. On 28 September 1988, you received nonjudicial punishment (NJP) for forgery. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time, you were advised of your rights, which included the right to confer with a qualified military attorney and present your case to an Administrative Discharge Board (ADB). After consulting with a military attorney, you elected to waive your rights, including your right to present your case to an ADB. Your Commanding Officer recommended an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 27 October 1988, you were discharged with an other than honorable characterization of service.

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 your contention that your discharge was inequitable because it was based on one

isolated incident in 36 months of service. However, the Board concluded that these factors were not sufficient to warrant relief in your case, given your misconduct. In this regard, the Board concluded the severity of your misconduct, which resulted in NJP, outweighed your desire to upgrade your discharge. In regard to your contention that your discharge was inequitable because it was based on one incident in 36 months of service, the Board noted that a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. The Board also noted that the record shows you were notified of and waived your procedural right to present your case to an administrative board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable 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