



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

[REDACTED]
Docket No. 199-17

DEC 13 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 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 case on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 November 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 31 July 1998. You had a brief period of satisfactory service, but on 12 January 1999 you received nonjudicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ), Article 86 (Unauthorized Absence (UA)) and Article 91 (Disrespectful Language), and received forfeitures (suspended for 6 months) and restriction/extra duties. The suspended punishment was vacated on 10 May 1999 due to your continued misconduct. On 12 November 1999, you again received NJP for violation of UCMJ, Article 86 (UA), and received forfeitures, restriction/extra duties, and reduction in rank to E-1. On 21 June 2000, you received NJP for violation of UCMJ, Article 112(a) (Wrongful Use of a Controlled Substance), and received forfeitures and restriction/extra duties. On 21 June 2000, you were provided Notice of Administrative Separation Processing based on Military Personnel Manual (MILPERSMAN) 1910-140 (Misconduct – Pattern of Misconduct), 1910-142 (Misconduct – Commission of a Serious Offense), and 1910-146 (Misconduct – Drug Abuse). At that time you acknowledged and waived your right to counsel and your right to present your case at an administrative separation board. Due to your repeated misconduct, the discharge authority directed your separation on 12 July 2000 with an Other than Honorable (OTH) characterization of service and a reentry code of RE-4.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully considered your contention that you desire a characterization upgrade because you would like to improve your ability to find stable employment and gain benefits to receive education assistance. However, the Board did not agree with your rationale for relief. The Board, in its review of your entire record and application, also carefully weighed all potentially mitigating factors, such as your post service conduct. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your continued misconduct, specifically in light of the Navy's policy of "zero tolerance." Finally, the Board concluded that the severity of your repeated misconduct outweighed your brief period of satisfactory service and your desire to upgrade your characterization of service.

MILPERSMAN 1910-304 dictates that an OTH characterization of service is warranted when conduct involving one or more acts or omissions constitute a significant departure from the conduct expected of members of naval service, specifically, conduct punishable by punitive discharges such as drug abuse. 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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director