



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

[REDACTED]  
Docket No. 497-17

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 16 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 20 July 1995. You served for over four years without disciplinary incident, but on 19 November 1999 you received nonjudicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ), Article 111 (Reckless Driving) and received 20 days restriction, forfeitures, and a suspended reduction in rank (RIR). On 14 December 2000, you received NJP for violating UCMJ, Article 112(a) (Drug Abuse) and received a reduction in rank to E-4, 30 days restriction and extra duties, and forfeitures. On 15 December 2000, you were notified of the initiation of administrative separation proceedings and elected to waive your right to present your case at a board. Due to your misconduct, the discharge authority directed your separation on 19 January 2001 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 argument that you have never repeated your misconduct and that you are remorseful for your actions. The Board also considered all mitigating factors, such as your post-service conduct and your desire to upgrade your discharge characterization. However, the Board did not agree with your rationale for relief based on the

seriousness of your misconduct, especially in light of the Navy's "zero tolerance" drug policy. The Military Personnel Manual, Section 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. The Board also highlighted the fact that you voluntarily waived your administrative separation board, which was your opportunity to present your case and any mitigating factors in your defense. Finally, there is no provision of law or in Navy regulation that allows for recharacterization of service due solely to the passage of time. 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