



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

[REDACTED]
Docket No. 718-17

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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.


You enlisted in the Navy and began a period of active duty on 30 October 1995. You served for over four years without disciplinary incident, but on 4 April 2000 you received nonjudicial punishment for violating Uniform Code of Military Justice, Article 112(a) (Drug Abuse) and received a reduction in rank to E-4, 45 days restriction and extra duties, and forfeitures. Your Official Military Personnel Record (OMPF) shows that on 20 April 2000, you were notified of the initiation of administrative separation processing and elected to waive your right to present your case at a board. At that time you were notified that the least favorable characterization of service you could receive was an Other than Honorable (OTH). Due to your misconduct, the discharge authority directed your separation on 19 May 2000 with an 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 someone forged your signature and initials on the administrative processing notice dated 20 April 2000. The Board also reviewed the supporting evidence that you provided; a different notice form which listed the least favorable characterization as a General (under Honorable) conditions. However, the Board did not agree with your rationale for relief. When the Board is faced with a question of document authenticity, they carefully review the evidence and try to determine if an error has occurred in the record. In doing so, the Board applies a presumption of regularity. After reviewing both administrative processing notice forms, the Board concluded that the form dated 20 April 2000 was the true and accurate form. The Board highlighted that not only was this form part of your OMPF, you did not raise or attempt to fix the alleged error until over sixteen years had passed since your discharge.

After concluding that you received proper notice of an OTH discharge and waived your administrative separation board, the Board concluded that your characterization of service was appropriate 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. 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