



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

[REDACTED]
Docket No: 4902-17

DEC 07 2017

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your 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 31 August 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, your record, and applicable statutes, regulations, and policies.

You enlisted in the Marine Corps and began a period of active duty on 13 February 1995. On 27 March 1998, you were convicted by special court-martial (SPCM) for wrongful use of methamphetamine and an 11-day unauthorized absence (UA). You were sentenced to reduction in rank and confinement. On 5 June 1998, you began a UA period which ended in apprehension on 23 February 1999. On 19 April 1999, you were convicted by SPCM for the extended UA and sentenced to reduction in rank, confinement, and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 7 February 2001, 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 desire to upgrade your discharge so you may receive veterans' benefits. The Board considered your contention that your Commanding Officer told you to leave and he'd send you discharge papers, so you left. You contend that your legal counsel said "this happened to others" but, since it would be your word against the Commanding Officers, your

counsel advised you to plead guilty. The Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the overall severity of your misconduct during your entire active duty service. The Board also noted that your court-martial conviction precluded the issuance of a fully honorable discharge under regulations in effect at the time. Although the Board cannot set aside a conviction, it may grant clemency in the form of changing a characterization of discharge, even one awarded by a court-martial. Unfortunately, the Board did not find evidence of an error or injustice that warrants changing your BCD. 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 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 a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

[REDACTED]

Executive Director