



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

[REDACTED]
Docket No: 5035-17

DEC 15 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, § 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 21 September 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 9 December 1993. It appears you served without disciplinary incident until 29 November 1996 when you received nonjudicial punishment (NJP) for wrongful use of marijuana. Your record is incomplete, in that it does not contain all of the documents pertaining to your administrative discharge. Based on your Certificate of Release or Discharge from Active Duty (DD Form 214), it appears that after being afforded all of your procedural rights, the separation authority directed separation under other than honorable (OTH) conditions by reason of misconduct due to drug abuse. You were discharged with an OTH characterization of service on 8 January 1997.

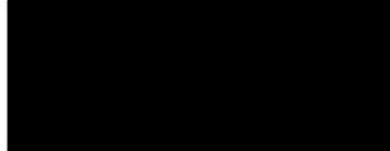
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board, in its review of your application, carefully weighed all potentially mitigating factors and your desire to upgrade your discharge to a general, under honorable conditions, or an honorable characterization of service. The Board also considered your contention that your discharge was inequitable because it was based on a single isolated incident in thirty-six months

[REDACTED]

of service with no other adverse actions. The Board concluded the severity of your misconduct clearly supported the commanding officer's decision to process you administratively for an OTH discharge. Additionally, the Board noted that the record shows you were notified of and waived your procedural right to present your case to an administrative separation board. 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