



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

[REDACTED]
Docket No: 5487-17

JAN 02 2019

[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, Section 1552. 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. Consequently, your application has been denied.

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 23 October 2018. 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 on 26 June 1989. During the period from 15 January 1991 to 2 April 1992, you received two non-judicial punishments (NJP) for assault consummated by battery and wrongful use of marijuana. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After you waived your procedural rights, your commanding officer (CO) recommended that you be discharged under other than honorable (OTH) conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed your separation under OTH conditions by reason of misconduct. On 17 April 1992, you were discharged.

The Board carefully weighed all potentially mitigating factors, such as character letters submitted on your behalf and your desire to upgrade your discharge, as well as your contentions that you provided great leadership and had high performance evaluations while in the military, and have accomplished much since being discharged. The Board, however, concluded that your

misconduct and violation of the Navy's "Zero Tolerance" drug policy outweighed your desire to upgrade your discharge.

In regard to your contention that you provided great leadership and had high performance evaluations while in the military, the Board noted that, while a Sailor's service is generally characterized at the time of discharge based on performance during the current enlistment, the conduct or performance of duty reflected by a single incident—such as a single act of misconduct—may provide the basis of characterization. Generally, characterization under OTH conditions is warranted for misconduct.

In regard to your contention that you have accomplished much since being discharged, the Board commends you for your post-service conduct, but determined that it does not excuse your misconduct while enlisted in the Navy or outweigh the basis for your discharge.

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 solid black rectangular box used to redact the signature of the Executive Director.

Executive Director