



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

[REDACTED]
Docket No: 6212-17
OCT 30 2018

[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 13 September 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.

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 issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

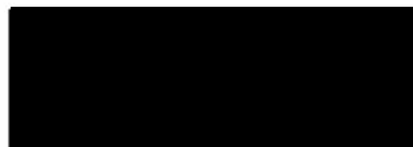
You initially enlisted in the Navy on 9 April 1973 for six years. On 10 April 1974, you received non-judicial punishment (NJP) for unauthorized absence (UA), disrespect towards a Petty Officer, and incapacitation for duty, and were awarded forfeitures of pay, 10 days of restriction and extra duty, and 10 days of correctional custody. On 21 August 1974 you went to a second NJP for a period of UA lasting 21 days and missing ship's movement. You received as punishment forfeitures of pay, 20 days of restriction and extra duty, and 15 days of correctional custody. On 16 October 1974 you went to NJP for eight separate instances of UA for being absent from your appointed place of duty, and you were awarded 5 days of restriction and extra duty. On 11 February 1975 you were arrested by [REDACTED] police and separately charged with both the possession and sale of heroin. On 20 February 1975, you were placed in

civilian confinement for assaulting the confidential informant in your civilian narcotics arrest. On 6 May 1975, you plead guilty in Superior Court of ██████████ to the sale of heroin and were ultimately sentenced to 180 days of confinement and 3 years' probation. Following your guilty plea, on 22 May 1975 you were notified of pending administrative separation action by reason of misconduct due to your involvement with civil authorities. After you consulted with counsel and initially elected to have an administrative separation board, on May 27, 1975 you submitted an agreement to waive your separation board in exchange for a General discharge. On 30 June 1975, your Commanding Officer recommended a General discharge by reason of misconduct. The discharge authority approved this recommendation and directed a General (under honorable conditions) discharge. On 25 July 1975, you were discharged.

The Board carefully weighed all potentially mitigating factors, including your contention that you were ill-represented in your case and that you would like to be entitled to benefits. However, the Board determined these factors were not sufficient to warrant relief in your case given the overall seriousness of your pattern of misconduct in the Navy and your civilian narcotics conviction. The Board noted that there is no evidence in your record, and you submitted none to support your contention that you did not receive adequate representation or experienced ineffective assistance of counsel. Finally, the Board also believed that considerable clemency and leniency was extended to you when your request for General discharge was approved considering the overall seriousness of your crimes.

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 large black rectangular redaction box covering the signature of the Executive Director.

Executive Director