



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

[REDACTED]  
Docket No. 6312-17  
FEB 05 2018

[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 11 January 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.

A review of your record shows that you entered active duty with the Marine Corps in August 1980. Non-judicial punishment was imposed on you on 11 January 1982 for an orders violation due to alcohol in the barracks. You were convicted by a Summary Court-Martial on 29 March 1983 for breach of peace, property damage, and provoking speech. Non-judicial punishment was again imposed on you for having alcohol in the barracks on 27 April 1983 before you received additional non-judicial punishment on 28 June 1983 for possessing two military identification cards. You were notified of administrative separation processing for pattern of misconduct on 22 July 1983 and acknowledged your rights. A separation physical was conducted on 8 September 1983 and you were determined to be qualified for separation. However, you were punished with non-judicial punishment for wrongful use of marijuana on 21 September 1983 before your discharge on 21 October 1983 with an Other than Honorable characterization of service.

The Board carefully considered your arguments that you deserve a change to your narrative reason for separation to disability and an upgrade to your characterization of service. Unfortunately, the Board disagreed with your rationale for relief. First, the Board determined you were mentally responsible for your misconduct. There was no evidence in your record that you were not criminally responsible for the multiple acts of misconduct that formed the basis for

your administrative separation from the Marine Corps. Based on this finding, the Board concluded the Marine Corps properly processed and separated you from the Marine Corps for a pattern of misconduct. The Marine Corps could have also processed you for drug abuse had they chosen to do so. Second, since you were properly processed for misconduct that resulted in an Other than Honorable characterization of service, the Board concluded you were not eligible for disability processing. Disability regulations direct that misconduct processing supersede disability processing. So again, the Board determined the Marine Corps properly processed you for misconduct vice a disability. Third, the Board could not find sufficient evidence that you suffered a sufficient occupational impairment from a dental condition or a knee injury to warrant a finding that you should have been referred to a medical board. The mere presence of a medical condition or specific correspondence of any manifestations thereof to an entry indicating a disability rating contained in the Department of Veterans Affairs Schedule for Rating Disabilities is insufficient to warrant either a finding of unfitness for continued naval service or a specific disability rating by the PEB in the absence of demonstrated duty performance impairment of sufficient magnitude as to render a Service member unfit for continued naval service. So even if you were eligible for disability processing, the Board found insufficient evidence of unfitness for duty. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application.

Regarding your requests for a name change in your military records, Board regulations require you to exhaust your administrative remedies prior to applying to this Board. Since your request is for an administrative correction which does not necessarily require action by this Board, you must first submit your request to the MMRP-13, 2008 Elliot Road, Quantico VA 22134-5030. If you remain unsatisfied with the Marine Corps' action in your case, you may reapply to this Board with evidence an error exists in your military record.

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