



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

Docket No: 7802-17  
MAY 17 2019

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 was 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. Your request was carefully examined by a three-member panel of the Board for Correction of Naval Records, sitting in executive session on 31 January 2019. 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.

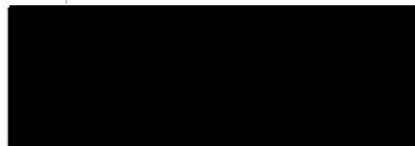
You enlisted in the Navy and began a period of active duty on 7 September 1989. On 13 October 1990, you were counseled regarding your unauthorized absence (UA), false official statement, public drunkenness, and wrongful possession of a military ID card. On 16 January 1991, you were convicted by a summary court-martial for destruction of government property, assault, and a false or unauthorized pass. On 3 October 1991, you were convicted by a civilian court of trespassing. On 19 December 1991, you were retained in the Navy despite your failure to report your 15 January 1989 arrest for possession of marijuana. On 9 January 1992, you received nonjudicial punishment (NJP) for another UA. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct, and misconduct due to commission of a serious offence. After consulting counsel, you waived your rights and did not object to your discharge. Your case was forwarded to the separation authority with the recommendation that you be discharged with an other than honorable (OTH) characterization of

service. The separation authority concurred with your commanding officer's recommendation and directed that you be discharged with an OTH characterization of service. You were discharged on 11 March 1992.

The Board carefully weighed all potentially mitigating factors, such as your otherwise commendable service, your youth and immaturity at the time, and your post-service conduct and accomplishments, and your desire to upgrade your discharge, as well as your assertions that your misconduct was minor, that you destroyed government property in the process of defending yourself, and that your conviction for trespassing was minor. The Board noted that you had the opportunity to present your self-defense claims at your summary court-martial but were still convicted at trial. In addition, the Board reviewed your assertions that your administrative separation was procedurally flawed by your command's inclusion of unfounded and uncharged misconduct, that the pre-service marijuana charge was dismissed by a judge, and that the speeding conviction was a *de minimis* offense. The Board noted that you waived your opportunity to contest all procedural aspects of your administrative separation and did not object to separation. Finally, the Board considered the contentions that your performance was affected by exposure to lead in your duties. You offered evidence of exposure to lead, but no evidence that lead exposure affected your health or performance. The Board thus concluded that these factors and assertions were not sufficient to warrant a change to your discharge given your repeated and serious misconduct, which resulted in one NJP and a conviction by a SCM.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new matters. New matters are those not previously presented to or 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