



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

[REDACTED]
Docket No: 8012-17
MAY 01 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 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 14 March 94. On 2 July 1995, you began an unauthorized absence (UA) from your ship, and you missed that ship's movement on 6 July 1995. On 2 August 1995, you were placed in deserter status, which lasted until you surrendered on 4 August 1995. After you surrendered, a sample of your urine tested positive for marijuana. Your commanding officer (CO) imposed nonjudicial punishment (NJP) on 9 September 1995 for your UA, missing movement, and wrongful use of marijuana. Subsequently, he initiated administrative separation action by reason of misconduct due to drug abuse and commission of a serious offense, and advised you that you could receive an other than honorable (OTH) characterization of service. After you waived your rights, your case was forwarded to the separation authority with the recommendation that you be discharged with an OTH characterization of service. The separation authority concurred with your CO's recommendation and directed that you be discharged with an OTH characterization of service. On 30 October 1995, you were discharged with an OTH characterization of service by reason of misconduct.

The Board carefully weighed all potentially mitigating factors, such as your otherwise commendable service, your post-service accomplishments, and your desire to upgrade your discharge, as well as your assertions that you left your ship in an effort to reconcile with your estranged wife. Also, the Board considered your assertion that you only took a puff from a marijuana cigarette and realized you made a terrible error in judgment, a lapse you said would not have occurred but for the loss of your wife. The Board also considered your assertions that your depression and anxiety caused you to fear telling your command, and that your clear thinking was adversely affected as well as your belief that use of marijuana was a *de minimus* offense. The Board, however, concluded that these factors and assertions were not sufficient to warrant a change to your discharge, given the serious nature of your misconduct. The Board noted that you waived your right to have your case heard before an administrative discharge board, your best chance for retention or to receive a better characterization of service. The Board also noted that there is no evidence, and you submitted none, to support your assertions.

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 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