



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

[REDACTED]
Docket No: 8180-17

APR 05 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 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 10 December 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 and began a period of active duty on 4 November 2008. On 31 August 2010, you were discharged from the Navy on the basis of fraudulent entry (drug abuse) and received a reentry (RE) code of RE-4 and a general (under honorable conditions) characterization of service. Your record contains a Naval Discharge Review Board (NDRB) decision dated 7 November 2010, which determined that no change to your record is warranted. Your available service record, however, does not contain a copy of your administrative separation package.

Your request an upgrade to your characterization of service from general to honorable, a change to your separation code to align with an honorable discharge, and a change to your narrative reason for separation to remove "Fraudulent Entry" from your Certificate of Release or Discharge from Active Duty (DD Form 214). You contend that the Navy received inaccurate information from the [REDACTED] County [REDACTED] state court. You also contend that the only

information that the Navy had to conclude that you were guilty was inaccurate. Specifically, you provide information from the [REDACTED] County Circuit Criminal Division, dated 8 February 2017, that indicates a criminal case involving marijuana against you was originally continued on 16 July 2008, and dismissed on 8 February 2017.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, including the information you provided from the [REDACTED] County Circuit Criminal Division, which reflects that the civilian charge against you were dismissed in 2017. When making its decision, the Board also considered the fact that your record does not contain a copy of your administrative separation package. The Board noted that, based on the information from the [REDACTED] County Circuit Criminal Division that you provided, on 16 July 2008, before you entered active duty, you had a pending criminal charge involving marijuana before the [REDACTED] County Criminal Court, which was later dismissed. You provided no information, however, explaining why the charges were dismissed. Based on the presumption of regularity that applies to the acts of public officials in the absence of contrary evidence, the Board determined that you were properly separated on the basis of fraudulent entry. Regardless of the ultimate outcome of your civilian case, the Board determined that the Navy had the authority to separate you with a general characterization of service based on your pre-service drug charge that does not appear to have been properly disclosed. The Board also concurred with the NDRB, and concluded that your general discharge characterization, your separation code, and your narrative reason for separation—Fraudulent Entry (Drug Abuse)—do not merit corrective action.

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,

[REDACTED]

Executive Director