



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

[REDACTED] Docket No: 5257-19

Ref: Signature Date

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (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, sitting in executive session, considered your application on 2 October 2020. 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, policies.

You enlisted in the Marine Corps on 18 October 1972. On 27 September 1973, you received nonjudicial punishment (NJP) for sleeping on post while a sentinel. On 23 May 1974, you were convicted by a foreign civil authority for smuggling 158.99 grams of marijuana in a KC-130 into [REDACTED]. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to conviction of a felony by foreign civil authorities and elected your right to an administrative discharge board (ADB). On 29 May 1974, you received a second NJP for failing to button your shirt, wrongfully appropriating a bicycle, and failing to report immediately to the First Sergeant after formation. On 7 June 1974, you began serving your confinement sentence from your civil conviction in [REDACTED]. On 12 July 1974, the ADB determined the preponderance of the evidence supported a finding of misconduct and recommended that you be separated from the Navy with an other than honorable (OTH) characterization of service. Your CO concurred with the ADB's recommendation. After the Staff Judge Advocate determined the ADB was sufficient in law and fact, the discharge authority approved the ADB recommendation

and directed that you be discharged by reason of misconduct with an OTH characterization of service. On 11 December 1974, you were discharged.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contention that you "served almost two years with good conduct and made one mistake by possessing marijuana." You further contend that you "believe I have been more than punished for the mistake I have made" and should not have this "hang over my head" any longer. The Board noted you did not provide any documentation or advocacy letters in support of your request for an upgraded characterization of service. Unfortunately, after careful consideration of your contentions, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or sufficient evidence to warrant clemency. Even under the liberal consideration standard, the Board found your misconduct warranted an OTH characterization of service.

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, which will require you to complete and submit a new DD Form 149. 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,

[REDACTED]

Executive Director