



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

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Docket No. 4668-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 7 May 2024. 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.

The Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to correct your DD Form 214 by changing your pay grade to E-6 from E-3. The Board considered your contention that the correction should be made because the Naval Discharge Review Board (NDRB) determined your initial discharge was unjust and corrected your discharge characterization to General (Under Honorable Conditions). You also contend that your pay grade at the time of discharge should have remained E-6.

The Board noted that you received non-judicial punishment (NJP), on 10 May 2012, for violating Article 112a, Uniform Code of Military Justice (UCMJ) for the wrongful use of marijuana, a controlled substance. The Board also noted that you accepted NJP, certified that you were given the opportunity to consult with a military lawyer, acknowledged your Article 31, UCMJ Rights, acknowledged your right to appeal, and you elected not to appeal your Commanding Officer's

(CO's) finding of guilt at NJP. The Board noted, too, that NDRB approved a correction to your record by changing your discharge characterization to General (Under Honorable Conditions). The Board, however, determined that pursuant to paragraph 6311.8 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN) your administrative reduction to E-3 was valid at the time of your discharge Under Other Than Honorable Conditions for misconduct-drug abuse. The Board also determined the correction to your discharge characterization by NDRB does not automatically invalidate a proper administrative action. Moreover, the Board found no evidence regarding justification for NDRB's decision, and you provided none. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

5/21/2024

