



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

SJN
Docket No: 1352-14
11 December 2014

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 November 2014. 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, your naval record, and applicable statutes, regulations, and policies.

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.

You enlisted in the Navy and began a period of active duty on 27 December 1993. On 14 February 1997 and 12 February 2012, you received nonjudicial punishment (NJP) for unauthorized absence, drunken or reckless operation of a motor vehicle, and conduct prejudicial to good order and discipline. As a result of your last NJP, a line of duty investigation (LOD) into injuries sustained by you was conducted. On 12 August 2013, the Commander, U.S. Fleet Cyber Command determined that your injuries were considered to have been incurred in the line of duty, and not due to misconduct, constituting final action. On 31 December 2013, you were honorably released from active duty and transferred to the Fleet Reserve.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of satisfactory service and desire to be reinstated to paygrade E-6 based on your LOD investigation. Nevertheless, the Board concluded these factors were not sufficient to reinstate you to paygrade E-6 as a result of the LOD investigation. It is important to keep in mind that your NJP and LOD investigation were two separate fact finding processes, and the decision of the latter does not cancel out the finding of the former. This is especially true in your case because your commanding officer's (CO) decision to impose NJP was based on a valid incident report, and since you presented no significant evidence during the LOD investigation that the CO did not consider at NJP. Additionally, the LOD investigation states, in part, that your accident and resultant injuries appeared to have been the result of negligent actions on your part, in combining alcohol with pain and cold medications, and then driving late at night when you had presumably had been awake for a significant period of time. Accordingly, your application has been denied.

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 and material evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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,



ROBERT J. O'NEILL
Executive Director