



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

SJN
Docket No: 2180-14
24 March 2015

[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.

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 11 March 2015. 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 18 January 1982. During the period from 28 September 1983 to 18 June 1985, you received five nonjudicial punishments (NJPs) and were convicted by summary court-martial (SCM). Additionally, you were counseled after your first NJP, and warned that further misconduct could result in administrative discharge action. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). Your case was forwarded and the separation authority directed discharge under other than honorable conditions by reason of misconduct. You were so discharged on 7 August 1985.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service, desire to upgrade your discharge, and belief that your discharge would automatically be upgraded after one year. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your misconduct that resulted in five NJP's, SCM conviction, and the fact that you were warned of the consequences of further misconduct. The Board also noted that you waived an ADB, your best chance for retention or a better characterization of service. Finally, you are advised that there is no provision of law or in Navy regulations that allows for recharacterization of a discharge automatically after one year or due solely to the passage 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