



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

SJN
Docket No: 4381-14
20 April 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 15 April 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 24 September 1991. On 3 June 1992, you were convicted by civil authorities of drug trafficking and sentenced to 10 years in jail. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB). Your case was forwarded to the separation authority recommending that you receive an other than honorable discharge (OTH) discharge by reason of misconduct. The separation authority concurred and you received an OTH discharged on 16 December 1992.

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 change your discharge, and Proclamation from the state of Arkansas. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant changing your characterization of service given your civil conviction for drug trafficking and ensuing incarceration. Additionally, it is important to keep in mind that your pardon from the state of Arkansas and administrative separation were two separate fact finding processes, and the decision of the latter does not cancel the findings of the former. This is especially true in your case because your CO's decision to administratively separate you was based on facts and circumstances surrounding your civil conviction. 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