



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

TAL  
Docket No: 6666-14  
9 July 2015

5 U.S.C 552(b) (6)

Dear 5 U.S.C 552(b) (6)

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 17 June 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 22 May 1986. You served for two years and seven months without disciplinary incident, but on 18 March 1988 and 6 April 1989 you received nonjudicial punishment (NJP). Your offenses were using provoking gestures, conduct prejudicial to good order and discipline and larceny.

Subsequently, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. The discharge authority approved this recommendation and directed separation under OTH conditions by reason of misconduct, and on 5 May 1989, you received the OTH.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and assertion of racial discrimination. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Regarding your assertion, there is no indication in the record that such problems, if they existed at the time of your service, were so serious as to excuse you of responsibility for your actions or were sufficiently mitigating to warrant recharacterization. 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,

5 U.S.C 552(b) (6)



ROBERT J. O'NEILL  
Executive Director