



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

MTN
Docket No: 6797-14
7 August 2015

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 25 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 27 January 1987. During the period from 16 May 1988 to 7 August 1989 you were convicted by three special courts-martial (SPCM) for four periods of unauthorized absence totally 337 days and four specifications of wrongful use of cocaine and marijuana. You were sentenced to reduction in rank, forfeiture of pay, confinement at hard labor and a bad conduct discharge.

Subsequently, you were so discharged on 27 February 1990 with a bad conduct discharge (BCD) as a result of SPCM.

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 the assertion that you were misinformed on your post-service benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the severity of your misconduct that resulted in your three SPCM convictions. Concerning your assertion that you were misinformed on your post-service benefits, the Department of Veterans Affairs (DVA) has the authority to recharacterize your service for their purposes. If you have been denied benefits, you should appeal that denial under procedures established by the DVA. 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