



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

MTN
Docket No: 6840-14
30 June 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 18 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 11 April 1989. You served without disciplinary incident until 14 November 1989, when you received nonjudicial punishment (NJP) for wrongful use of cocaine. The foregoing NJP was the result of an investigation due to your positive urinalysis on 19 October 1989. Nonetheless, during the investigation, you stated, in part, that you had not used drugs and you did not know why your urine sample tested positive.

Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. After waiving your procedural rights, your commanding officer recommended separation under other than honorable conditions by reason of misconduct. On 16 April 1990, the discharge authority approved this recommendation and directed an other than honorable discharge by reason of misconduct due to drug abuse, and on 24 April 1990, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct, desire to upgrade your discharge, and your assertion that you were not offered rehabilitation for drug use. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case given your drug related misconduct which resulted in NJP and your separation from the Navy. Regarding your assertion of not being offered rehabilitation, the Board concluded that since the record reflects that you stated in part, that you had not used drugs, rehabilitation would not have been a course of action for your circumstances. 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