



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

MTN  
Docket No: 6913-14  
4 August 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 14 July 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 16 December 2008. On 10 June 2011, you received a nonjudicial punishment (NJP) for willfully disobeying a superior commissioned officer. Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You elected to consult with legal counsel and waived your right to an administrative discharge board. The commanding officer recommended that you be discharged with a general under honorable conditions discharge.

The separation authority approved the recommendation and directed discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 22 July 2011.

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 change the narrative reason for separation. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case. Concerning your assertion that you were discharged due to your dismissed domestic battery charge in civilian court, there is no indication in the record that this was the case; you were discharged for willfully disobeying a superior commissioned officer's military protective order to stay away from your spouse. So the fact that your civilian domestic battery case was ultimately dismissed has no bearing on your separation or characterization of service. Therefore, the Board determined you were properly processed under the MILPERSMAN and not punished for the same offense twice, as you allege. Accordingly, your application has been denied.

Further, regarding your request for a personal appearance, be advised that Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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