



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

TLG
Docket No: 6992-14
14 May 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 8 May 2015. 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 July 1985. On 17 May 1988 you were convicted by civil authorities of criminal sexual conduct with a minor and disseminating obscene material to a minor. You were sentenced to confinement for 22 years.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 8 December 1989, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your characterization of service to honorable. Nevertheless, the Board found that these factors were not sufficient to warrant relief in your case given the severity of your misconduct in the civilian community. 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 applying for correction of an official naval record, the burden is on the applicant to demonstrate the existence of the probable material error or injustice.

Sincerely,

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

ROBERT J. O'NEILL
Executive Director