



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

TAL  
Docket No: 7279-14  
30 July 2015

Dear Mr. Reed:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 24 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 that 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 17 April 1994. You served for four years and six months without disciplinary incident, but on 2 October 1998, you were apprehended by civil authorities and placed in confinement. On 27 September 1999, you were convicted in civil court of indecent liberties, aggravated sexual battery and object sexual penetration. The sentence imposed was 12 years confinement, supervised probation and court costs.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to civilian conviction at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of

misconduct due to civilian conviction. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 1 December 1999, 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 discharge and assertion that your civil conviction should not have had any bearing on your military obligation. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in a civil conviction. Further, you were given an opportunity to defend your actions, but waived your procedural rights. Regarding your assertion, regulatory guidelines state that the administrative separation process encompasses the performance review of a Sailor's entire record, which includes both military and civilian communities. In this regard, members of the Armed Forces who are convicted by civil authorities may be administratively discharged for misconduct which occurred in either community or the combined communities. 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