



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

SJN  
Docket No: 8330-13  
4 September 2014

[REDACTED]

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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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 September 2014. 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 9 December 1987. The Board found that on 16 February 1989, you received nonjudicial punishment (NJP) for disobedience. You received a forfeiture of pay and 60 days of restriction. Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 7 March 1989, you received a second NJP for being disrespectful in language toward a superior petty officer. You received a forfeiture of pay and were reduced in paygrade. On 9 March 89, your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. Your commanding officer stated, in part, that you repeatedly violated Navy rules and regulations, your infractions resulted from your inability to deal with individuals in a position of authority, and every effort had been made, both formally and informally, to correct your deficiencies. Further,

that your medical issues showed that you were manipulating the medical system to avoid certain duties, bordering on malingering, could not conform to military life, and were an administrative burden. On 22 March 1989, the separation authority directed an OTH discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 31 March 1989.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of service and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your two NJP's, one of which was after you were notified that you were being administratively separated for a serious offense. The Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. Finally, you are advised that there is no provision of law or in Navy regulations that allows for recharacterization of a discharge automatically due solely to the passage of time. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 or other matter not previously considered by the Board. 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,



ROBERT J. O'NEILL  
Executive Director