



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

TJR
Docket No: 5110-14
15 January 2015

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

Dear 5 U.S.C.

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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 January 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 1 July 1982. You satisfactorily served until 2 September 1983, when you received nonjudicial punishment (NJP) for two periods of failure to go to your appointed place of duty. About seven months later, on 19 April 1984, you received NJP for two periods of absence from your appointed place of duty.

Subsequently, you were processed for an administrative separation by reason of substandard performance due to your failure to perform your duty assignments satisfactorily. You were also advised that you were not eligible for retention or reenlistment due to your substandard professional performance. In this regard, the discharge authority directed a general discharge by reason of unsatisfactory performance and on 23 May 1984, while serving in paygrade E-2, 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 obtain benefits via the Montgomery GI Bill. It also considered your assertions of a claim for treatment for post-traumatic stress disorder (PTSD), being tortured, and being passed over twice for promotion. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct, which resulted in two NJPs, and your substandard performance. Regarding your assertions, the Board noted that the severity of your misconduct outweighed the mitigation offered by your unsubstantiated claim for PTSD treatment, being tortured, and being passed over for promotions. 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 or other matter not previously considered by the Board within one year from the date of the Board's decision. 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