



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

TAL
Docket No: 764-14
15 January 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 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 12 October 1978. You served for a year without disciplinary incident, but during the period from 14 November 1979 to 12 March 1982, you received nonjudicial punishment (NJP) on four occasions, were convicted by a summary court-martial and convicted in civil court on three occasions. Your offenses were unauthorized absence, failure to go to your appointed place of duty, insubordinate conduct, failure to obey a lawful order, larceny, writing checks without insufficient funds, and dealing in stolen property.

You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (civil conviction). After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 13 April 1982, the ADB found that you committed

misconduct and recommended that you be separated with an OTH discharge. The separation authority agreed with the recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct and on 23 April 1982, 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 you were later diagnosed with post-traumatic stress disorder (PTSD) which resulted from a rape incident during your enlistment. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct and civil convictions. Regarding your assertion of PTSD, the Board could not find evidence to support this assertion. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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 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