



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

TAL  
Docket No: 9109-14  
23 July 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, 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. 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 6 August 2003. You served for a year and two months without disciplinary incident, but during the period from 4 November 2004 to 17 November 2005, you received nonjudicial punishment (NJP) on two occasions. Your offenses were disrespect toward a noncommissioned officer, failure to obey a lawful order, and dereliction in the performance of duties.

Subsequently, you were processed for administrative separation by reason of misconduct due to minor disciplinary infractions. In connection with this processing, you would have acknowledged

the separation action. Your commanding officer recommended discharge under honorable conditions by reason of misconduct due to minor disciplinary infractions. The discharge authority approved the recommendation and directed separation under honorable conditions by reason of misconduct, and on 26 January 2007, 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 did not meet the requirements for a discharge for minor disciplinary infractions. Nevertheless, the Board concluded that these factors were not sufficient to warrant relief in your case because of your repeated misconduct. Regarding your assertion, the Board concluded that your repetitive misconduct was in direct violation of Navy regulations that state a Sailor may be separated for committing three or more minor offenses or three or more specification of a minor offense. The Board also believed that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when a Sailor is separated for misconduct. 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