



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

SJN
Docket No: 1004-14
12 March 2015

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

Dear

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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.

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 February 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 24 April 1989. Based on the information currently contained in your record, on 26 April 1989, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 14 July 1992, you were diagnosed with an adjustment disorder and personality disorder that both existed prior to you entering the service, and alcohol abuse. The report further stated, in part, that you had the capacity to understand the nature of the charges you were pending at the time, and could conduct your own defense. The record shows you waived your right to consult counsel prior to deciding to accept nonjudicial punishment (NJP). On 23 September 1992, you received NJP for 38 days of unauthorized absence (UA) and missing ship's movement. Subsequently, administrative

discharge action was initiated by reason of misconduct due to commission of a serious offense, and misconduct due to wrongful use of marijuana. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB). Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. The separation authority concurred and directed an OTH discharge by reason of misconduct. You were so discharged on 10 November 1992.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service, desire to upgrade your discharge, and assertion that you were suffering from post-traumatic stress disorder (PTSD) when your misconduct occurred while on active duty. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP for serious offenses. The Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. Regarding your assertion that you were suffering from PTSD when your misconduct occurred, the Board noted that the severity of your misconduct outweighed the mitigations of your assertion of PTSD. Additionally, there is no evidence in the record to support it, and you submitted no such evidence. 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