



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

SJN
Docket No: 7371-14
10 July 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 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 6 July 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 5 May 1982. On 20 January 1982, you received three nonjudicial punishment (NJP) for 10 days of unauthorized absence (UA). On 1 June 1983, you were convicted by special court-martial (SPCM) of 134 days of UA, and breaking restriction. As part of your sentence, you received a bad conduct discharge (BCD). You received the BCD on 16 April 1984 after appellate review was completed.

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, at the time of your misconduct, and presently, experiencing Post Traumatic Stress Disorder (PTSD) symptoms. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP and SPCM conviction for a period of UA that lasted over four months. Regarding your assertion that you were suffering from PTSD symptoms when your misconduct occurred, the Board noted that the severity of your misconduct outweighed the mitigations of your assertion. Finally, there is no evidence in the record, and you provided none to support it. 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