



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

SJN
Docket No: 510-14
10 February 2015



Dear 

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 21 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 11 September 1979. On 30 January and 20 February 1981, you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA). On 16 March 1981, you were convicted by special court-martial (SPCM) of two specifications of UA totaling 308 days. You were sentenced to a forfeiture of pay and confinement at hard labor. On 29 July 1981, you received a third NJP for two periods of UA. Subsequently, administrative discharge action was initiated by reason of misconduct due to frequent involvement. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative

discharge board (ADB). On 12 August 1981, your case was forwarded to the separation authority. On 18 August 1981, the separation authority directed an OTH discharge by reason of misconduct. You were so discharged on 27 August 1981.

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, post service diagnosed post-traumatic stress disorder (PTSD), and belief that your discharge would automatically change after six months. It also considered your assertion that you had an undiagnosed mental health issues and personality/mood disorder. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP and SPCM conviction. Concerning your assertions of having undiagnosed mental health issues and personality/mood disorder, there is no evidence in the record to support them, and you submitted no such evidence. Regarding your assertion of suffering from PTSD at the time of your misconduct, the Board can only consider assertions of PTSD when an applicant presents clear evidence that the PTSD is service connected and related to the alleged error or injustice. Despite stating that you were suffering from PTSD while on active duty, the Board determined it insufficient to warrant relief. Further, you are advised that there is no provision of law or in Navy regulations that allows for recharacterization of a discharge automatically after six months or 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 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,



ROBERT J. O'NEILL
Executive Director