



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

SJN
Docket No: 520-14
9 February 2015

[REDACTED]

Dear [REDACTED]

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 7 December 1988. On 20 November 1990, you received nonjudicial punishment (NJP) for disobedience and five instances of uttering worthless checks. On 15 April 1995, you were arrested by civil authorities and charged with one count of making terrorist threats, carrying a concealed and loaded firearm. On 2 May 1995, you plead guilty to carrying a concealed weapon, and assault with a deadly weapon. At that time, a plea agreement stated that you would serve 180 days in jail.

Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 18 August 1995, an ADB found that you had committed misconduct due to a commission of a serious offense, and recommended discharge under other than honorable (OTH) conditions. On 28 September 1995, you received a second NJP for disobedience and maltreatment. Your commanding officer concurred with the ADB findings and recommendations and forwarded your case to the separation authority for review. That same day, the separation authority directed an OTH discharge by reason of misconduct due to commission of a serious offense.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service, declaration of counsel, the circumstances surrounding your discharge, and desire to upgrade your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of two NJP's, one of which was after you were notified that you were being administratively separated from the service, guilty plea to very serious offenses, conviction by civil authorities, and subsequent incarceration. 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