



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

TAL
Docket No: 6741-14
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 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 June 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 3 November 1988. You served for a year and two months without disciplinary incident, but during the period from 23 January 1990 to 6 April 1990, you received nonjudicial punishment (NJP) on two occasions. Your offenses were absence from your appointed place of duty, using disrespectful language toward a noncommissioned officer, failure to obey a lawful order, unauthorized absence (UA).

Subsequently, you were notified of pending administrative separation by reason of misconduct due commission of a serious offense at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 8 June 1990, you were so discharged. On 13 November 1995, the Naval Discharge Review Board (NDRB) upgraded the characterization of your discharge to general under honorable conditions based on your post service conduct.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service achievements and desire to upgrade your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Additionally, the character of service is based, in part, on conduct and overall trait averages (OTA) which are computed from marks assigned during periodic evaluations. Your conduct average was 2.8, which was below the OTA of 3.0 required at the time of your separation for a fully honorable characterization. The NDRB upgrade of your characterization to general is the appropriate reflection of your military service. 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