



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

TLG  
Docket No: 6765-14  
2 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. The application was filed in a timely manner.

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 1 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 27 April 1979. You served for about eight months without disciplinary incident; but during the period from 7 December 1979 to 16 July 1982, you received seven nonjudicial punishments (NJP) and were convicted by a civil court. Your offenses were unauthorized absence (UA) for 112 days,

missing Ship's movement, wrongfully using provoking words, absence from appointed place of duty, possession of marijuana, possession of drug paraphernalia, and second degree burglary.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a conviction by a civil court. After waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a conviction by a civil court. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 14 October 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct, character statements, desire to upgrade your discharge, and your assertion that your civil conviction should not have had any bearing on your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant relief in your case given the seriousness of your misconduct as evidenced by seven NJPs and civil conviction.

Regarding your assertion, regulatory guidelines state that the administrative separation process encompasses the performance review of a Sailor's entire record, which includes both the military and civilian communities. In this regard, members of the Armed Forces who are convicted by civil authorities may be administratively discharged for misconduct which occurred in either community or the combined communities. 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)

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ROBERT J. O'NEILL  
Executive Director