



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

JDR
Docket No: 6971-14
5 August 2015

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 23 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, began a period of active duty on 27 October 1983, and served without disciplinary incident for about a year. Although no punitive action was taken, on 16 November 1984 you confessed to using marijuana and were placed in a substance abuse rehabilitation program. During the period from 2 May 1985 to 16 August 1986, you had four civil arrests, resulting in a civil conviction of reckless driving and driving under the influence. On 5 February 1985, you received nonjudicial punishment (NJP) for unauthorized absence (UA) and three specifications of failure to obey a lawful order. During the period from 5 February 1985 to 29 July 1985, you were

formally counseled on three occasions due to your nomination for advancement being withdrawn, overindulgence in alcoholic beverages resulting in civil arrest, and for the medical department being found in an unsatisfactory condition after inspection. You received inpatient treatment from 23 February to 1 April 1986 at the Alcohol Rehabilitation Center (ARC) Naval Air Station, Jacksonville, Florida. On 15 April and 30 May 1986, you received (NJP) for two specification of failing to obey a lawful order, a period of four days of UA, and being absent from your appointed place of duty. On 17 August 1986, you received NJP for being absent from your appointed place of duty.

Subsequent to the foregoing misconduct, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. At that time you elected to waive your procedural rights. Your case was forwarded, recommending discharge under other than honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct. The separation authority approved this recommendation and directed an OTH discharge. On 10 September 1986, you were so discharged.

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 your assertion that you served your country honorably as a member of the military and as a civilian in Iraq and Afghanistan. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your repeated misconduct which resulted in NJP for ten violations of the Uniform Code of Military Justice and four civil arrests. Further, with regard to your assertion, the Board recognized your service in Iraq and Afghanistan. However, the severity of your repeated misconduct substantially outweigh any mitigation created by your military and civil service. In this regard, the Board noted that after rehabilitation treatment and after you were counseled and warned that further misconduct could result in administrative separation, you committed more offenses. Finally, the Board noted that you waived your procedural rights which may have resulted in a better characterization of 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