



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

JDR
Docket No: 7443-14
10 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 5 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 7 February 2002, and served without disciplinary incident for about eight months. However, on 25 October 2002, you were counseled and advised of using your chain of command and being judicious in your statements. During the period from 28 October to 20 November 2002, you received two nonjudicial punishments (NJP) for insubordinate conduct, provoking speeches or gestures, failure to obey a lawful order, failure to obey a lawful general order, and for being absent from your appointed place of duty. You appealed the NJP imposed on 28 October 2002; however, that appeal was denied.

Subsequently, administrative discharge action was initiated by reason of misconduct due to the commission of a serious offense. 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 the commission of a serious offense. The separation authority concurred with the recommendation and directed an OTH discharge. On 5 December 2002, 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 desire to have your NJPs removed. The Board also considered your assertion that you were denied treatment for bipolar I condition. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct which resulted in a counseling and two NJPs. Your commanding officer's decision to impose the NJPs and deny your appeal was appropriate in light of the offenses you committed. In regards to your assertion, there is no evidence in the record, and you submitted none, that you were diagnosed with, or denied treatment for, bipolar I condition while in the 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