



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

TAL
Docket No: 11446-14
11 December 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 4 November 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.

On 8 August 1984, prior to enlistment, you were convicted in Florida civil court of statutory rape, you entered a pre-trial intervention program for 90 days, at completion of the program, the statutory rape charge was Nolle Prosequi, no longer pursued.

You enlisted in the Navy and began a period of active duty on 5 November 1986. Your fraudulent enlistment was revealed by a Defense Investigative Service (DIS) background investigation. You

failed to report all offenses committed prior to enlistment and obtained a fraudulent enlistment in the Navy through deliberate concealment of your police record, not an injury to your hand.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to fraudulent enlistment your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to fraudulent enlistment. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 12 June 1987, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in a fraudulent enlistment. 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,

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5 U.S.C. 552(b) (6)

SCOTT F. THOMPSON
Executive Director