



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

Docket No: 2077-16

APR 25 2016

Dear [REDACTED]

This is in reference to your latest reconsideration request of Docket Number 10439-12 dated 14 August 2013. Your case was considered in accordance with Board for Correction of Naval Records procedures that conform to Lipsman v. Secretary of the Army, 335F. Supp.2d 48 (D.D.C 2004).

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 14 April 2016. 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 25 April 1986. On 2 June 1988, you received nonjudicial punishment (NJP) for disobeying a lawful order. On 7 November 1988, you were notified of administrative discharge proceedings. You consulted with counsel and waived your right to appear before an administrative discharge board (ADB). Your commanding officer recommended an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense.

On 14 December 1988, the discharge authority approved the recommendation. Prior to your discharge, you received a second NJP on 16 December 1988 for unauthorized absence. On 17 January 1989, you were so discharged with an OTH characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to have your discharge upgraded, your primary specialty number corrected on your DD Form 214, and your assertion that that your Department of Veterans Affairs (DVA) service-connected disability rating is new and material evidence that demonstrates the existence of probable material error or injustice. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the severity of your misconduct. In regards to your assertion, although your DVA service connected disability rating is new evidence, the Board determined that this documentation did not outweigh your significant misconduct. Further, administrative corrections to the DD form 214, such as a correction to your primary specialty number does not fall under the purview of this Board. If you would like a corrected DD Form 214, you may wish to contact Navy Personnel Command, Code PERS-312, 5720 Integrity Drive, Millington, TN 38055. Lastly, there is no indication that your Social Security Number is incorrect in your records. 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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director