



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

[REDACTED]
Docket No: 2352-16

FEB 03 2017

[REDACTED]
Dear [REDACTED]

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 November 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 1 July 1983. You served for about six months without disciplinary incident, but on 31 January 1986, you were convicted in civil court, in [REDACTED] of robbery. The sentence imposed was forced labor, which was suspended for four years. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (civil conviction). After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 27 March 1986, the ADB found that you committed misconduct and recommended that you be retained in the Naval Service. The separation authority agreed with the recommendation of the ADB and you were retained.

On 30 June 1987, you were convicted by special court-martial (SPCM) of forgery. The sentence imposed was hard labor without confinement, which suspended for six months. On 30 June 1987, you were released from active duty and transferred to the Navy Reserve under honorable conditions at the expiration of your obligated service, based on your disciplinary record and conduct mark average.

Characterization of service is based in part on your conduct average computed from marks assigned on a periodic basis. Your conduct mark average was 2.9. At the time of your service, a conduct mark average of 3.0 was required for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, and your statement that you would like to upgrade your discharge from general to honorable. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in a civil conviction, an SPCM, and failure to attain the required average in conduct. The Board believed you were fortunate to receive a general characterization of service, since Sailors who have committed misconduct normally receive other than honorable discharges. 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,



Executive Director