



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

[REDACTED]
Docket No: 4422-16

APR 14 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 31 January 2017. 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 9 September 1997. On 13 July 1998, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) totaling four days. On 21 October 1998 and 11 March 1999, you failed two Physical Fitness Assessments (PFA's). Between 21 April 1999 and 26 July 2000, you received three separate NJPs for offenses such as disobeying a lawful order, insubordinate conduct towards a petty officer, disrespect to a petty officer, disorderly conduct, and assault.

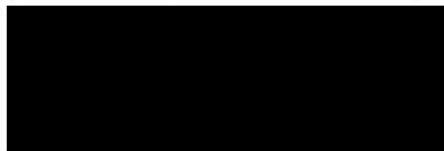
Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct, and misconduct due to the commission of a serious offense. After you waived your procedural rights, the discharge authority directed a general under honorable conditions discharge (GEN) by reason of misconduct. On 29 September 2000, you were discharged with a GEN characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, your desire to upgrade your discharge, and contention that your service is considered honorable by the Department of Veterans Affairs (DVA). Additionally, the Board considered your desire to continue your education to provide a better life for your family and to open a shelter or housing for homeless veterans. However, the Board concluded these factors were not sufficient to warrant relief in your case given the overall severity and pervasiveness of your pattern of misconduct.

The Board also noted that the record shows that you were notified of and waived your procedural right to present your case to an administrative separation board. In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. Moreover, there is no provision in law or regulations that allows for re-characterization of a discharge automatically due solely to the passage of time. Finally, the DVA only has the authority to recharacterize your service for purposes of determining eligibility for their VA benefits. The DVA does not have any authority to change your naval record, and any DVA determination is wholly independent from the Navy's.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon submission of new and material evidence. New evidence is evidence not previously considered by the Board. 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