




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


Docket No: 4426-16
JUN 07 2017



Dear 

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 29 March 2017. 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.

You reenlisted in the Navy on 13 November 1998 after more than four years of prior service. You served for a year and five months without disciplinary incident, but on 3 May 2000, you received nonjudicial punishment (NJP), for failure to obey a lawful order, resisting apprehension disorderly conduct, and indecent assault. Although the Board lacked your entire service record book (SRB) it appears from the SRB entries before the Board that you were subsequently processed for separation by reason of misconduct. In connection with this processing you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. The record clearly shows that on 12 February 2002, you were discharged with a general characterization of service due to misconduct based on your disciplinary record and conduct mark average.

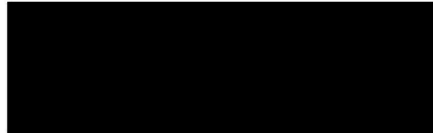
Characterization of service is based in part on conduct and proficiency averages computed from marks assigned on a periodic basis. Your conduct average was 2.71. At the time of your service, a conduct average of 3.0 was required for a fully honorable characterization of service.

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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. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your claim you were cleared from any wrongdoing. That you went through a court-martial and you were found not guilty of a weapons charge. The Board concluded that these factors were not sufficient to warrant relief in your case because of your repeated misconduct that resulted in an NJP and failure to attain the required average in conduct. The Board also believed that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when a Sailor is separated for misconduct. In regard to your claim the Board noted there is no evidence in your record of court-martial. Accordingly, your application has been denied.

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 the 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,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director