



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

[REDACTED]
Docket No: 6532-16
OCT 10 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 19 July 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, relevant portions of your naval record and applicable statutes, regulations and policies.

You enlisted in the Navy and began a period of active duty on 25 September 1990. You served for about a year without disciplinary incident, but during the period from 10 September 1991 to 17 October 1991, you received nonjudicial punishment (NJP) on two occasions. Your offenses were unauthorized absence (UA) from your unit for a period of 35 days, absence from your appointed place of duty, willfully disobeying a lawful order from a commissioned officer, disrespect toward a commissioned officer and insubordinate conduct toward a noncommissioned officer. Although the Board lacked your entire service record book (SRB) it appears from the SRB entries before the Board that you were subsequently involuntarily processed for separation by reason of misconduct due to commission of a serious offense. 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 22 November 1991, you were discharged with an other than honorable (OTH) separation due to misconduct.

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 carefully weighed all potentially mitigating factors, and your contention that you were not given proper care for a back injury you received while on duty. 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 two NJPs and a period of UA lasting more than a month. Regarding your contention, there is no requirement or law that grants recharacterization solely on the issue of obtaining veterans benefits. The Department of Veterans Affairs (DVA) determines eligibility for post-service benefits, not BCNR. You should contact the nearest office of DVA concerning your right to apply for benefits. 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,

[REDACTED]

Executive Director