




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


Docket No. 7585-16
SEP 26 2017



Dear 

You previously petitioned the Board and were advised in our letter of 22 August 2016, that your application had been denied. Your case was reconsidered to ensure that your case receives due consideration-in light of all applicable statutes, regulations and relevant guidelines that your matter should receive reconsideration by the Board with the benefit of legal advisory opinion (AO) as to the issues raised. The AO provided in NPC memo 5800 PERS OOJ dated 7 November 2016 was sent to you on 16 December 2016 for an opportunity to comment prior to being considered by the Board. After the 30 day period for comment expired without a response, the case was presented to the Board.

In this regard, your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records on 21 June 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 20 December 2000. On 7 November 2002, you were convicted at a special court martial (SPCM) for indecent assault. As a result of your conviction you were sentenced to confinement where on 27 February 2003, you signed the requirement of having to register as a sex offender as a result of being guilty of indecent assault at SPCM. On 19 May 2003, you were discharged with an OTH characterization of service.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board, in its review of your record, and application with supporting documentation, carefully weighed all potentially mitigating factors, such as your desire to remove derogatory material relating to being required to register as a sex offender. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Specifically, the Board does not have the authority to exempt you from registration as a sex offender. This Board also cannot remove your SPCM conviction from your military record. 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,


Executive Director