



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

Docket No: 7613-16
NOV 20 2017

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 11 October 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 19 September 2001. You served for four years and five months without disciplinary incident, but during the period from 3 February 2006 to 9 June 2006, you received nonjudicial punishment (NJP) on three occasions. Your offenses were unauthorized absence, failure to obey a lawful order, making a false official statement and malingering. Although the Board lacked your entire service record book (SRB), it appears from the SRB entries 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 30 August 2006, you were discharged with a general characterization of service due to a pattern of 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, in its review of your entire record and application, carefully weighed all potentially mitigating factors such as statement surrounding your discharge, life after the Navy, witness statement, and your contention that you were forced by your command to sign a DD-Form 214

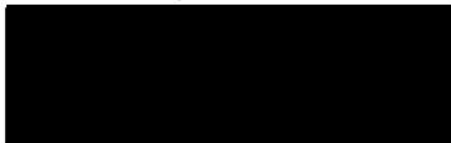
JAN 4 2018

with a general characterization of service after you had already signed a DD Form 214 with an honorable characterization. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in three NJPs. In regard to your contention, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In this regard, the Board concluded that your misconduct outweighed your desire to upgrade your discharge and found no error or injustice. Accordingly, your application has been denied.

In regard to your concern about your "payout of leave" and audit, please send your inquiry to the Defense Finance and Accounting Service, DFAS-IN, 8899 East 56th Street, Department 3300 (Attn: COR/Claims), Indianapolis, Indiana 46249-3300.

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