



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

[REDACTED]
Docket No: 7848-16
FEB 01 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 November 2016. 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.

On 27 September 2015, the Jacksonville Police arrested you for Driving While Intoxicated (DWI). On 26 October 2015, you received nonjudicial punishment (NJP) for operating a vehicle while drunk, or with a blood or breath concentration of .09g/21OL. You received the following punishments: reduction to E-3; forfeiture of \$969.00 per month, for two months; restriction; and extra duty for 45 days. The sentence of forfeiture of pay was suspended unless sooner vacated. You chose not to appeal or make a rebuttal statement. On 8 April 2016, pursuant to a plea agreement, you plead guilty to a lesser charge. You were sentence to 12 months of probation and ordered to pay fines and court cost.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to remove the NJP proceedings dated 26 October 2015, have your good conduct medal reinstated, to have your rank restored, to have back-pay awarded, and to have your time in grade restored. The Board also considered your assertion that your NJP was unjust because you were found not guilty of DWI by a civilian court. The Board concluded that your commanding officer's decision to impose NJP was appropriate, and it was administratively and procedurally correct as written and filed. The Board further concluded that the removal of the NJP is not warranted, and that such action would be unfair to your peers, against whom you will compete for promotions and assignments. Accordingly, your application has been denied.

Furthermore, regarding your assertion that the NJP was unjust because you were found not guilty of DWI by a civilian court, the Board noted that the record clearly shows the Report of Civilian Conviction, which accurately documents your underlying misconduct and your civilian conviction of a lesser included offense. Finally the Board concluded your claim is without merit and the entries are required to be included in your OMPF by applicable regulations.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case.

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