



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

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Docket No: 0141-20

Ref: Signature Date

Dear ■■■■■■■■■■

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

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, sitting in executive session, considered your application on 22 October 2020. 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 May 1986. On 24 September 1987, you received non-judicial punishment (NJP) for assaulting a superior commissioned officer and two specifications of provoking speeches and gestures. Subsequently, you were notified of pending administrative action to separate you from the naval service because of misconduct due to commission of a serious offense. You were advised of, and waived your procedural right, to consult with and be represented by military counsel, and your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) recommended that you be administratively discharged from the naval service with a general (under honorable conditions) characterization of service. The separation authority did not concur with the CO's recommendation and directed an other than honorable (OTH) characterization of service discharge by reason of misconduct due to commission of a serious offense. On 22 October 1987, you were so discharged.

The Board carefully weighed all potentially mitigating factors in your case, including your desire to upgrade your discharge. The Board considered your contention that you were treated unfairly in the situation that led to your OTH discharge. However, there is no evidence in the record and you presented none to support this contention. The Board relies on a presumption of regularity to support the official actions of public officials and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

Unfortunately, after careful consideration, the Board did not find evidence of an error or injustice that supports upgrading your characterization of service or sufficient evidence to warrant clemency. Even under the liberal consideration standard, the Board concluded that the misconduct set forth in your service record warranted an OTH characterization of service.

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 matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

12/11/2020

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Executive Director

Signed by: █