



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

TAL
Docket No: 11460-14
11 December 2015

5 U.S.C. 552(b)(6)

Dear 5 U.S.C. 552(b)(6):

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 4 November 2015. 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.

Further, regarding your request for a personal appearance, Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, 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 24 March 1983. You served for a year and two months without disciplinary incident, but during the period from 12 June 1984 to 21 May 1985, you received nonjudicial punishment (NJP) on three occasions and were convicted in civil court on two occasions. Your offenses were failure to obey a lawful order, unauthorized absence from your unit, discreditable conduct upon the Naval Service, disrespect toward a noncommissioned officer, assault and battery, and reckless driving.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to frequent involvement at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement. On 28 June 1985, you received NJP for failure to obey a lawful order. The discharge authority approved your commanding officer's recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 14 August 1985, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in four NJPs and two civil convictions. Further, you were given an opportunity to defend your actions, but waived your procedural rights. Accordingly, your application has been denied.

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,

5 U.S.C. 552(b) (6)

MAR 8 2016

SCOTT F. THOMPSON
Executive Director