



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

[REDACTED]
Docket No: 3201-16
MAY 11 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.

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 21 February 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.

You enlisted in the Navy and began a period of active duty on 6 September 1989. During the period from 4 May 1990 to 5 March 1993, you received five nonjudicial punishments (NJP) for the following offenses: failure to obey a lawful order, disorderly conduct, unauthorized absence (UA) for 18 days, missing ship's movement, drunk and disorderly, and being absent from your appointed place of duty. Subsequently, you were notified of pending administrative separation action by reason of misconduct due a pattern of misconduct. After you waived your procedural rights, your commanding officer recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 25 March 1993, you were discharged.

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 your desire to upgrade your discharge and contentions that you got into trouble while out in the town and you served in Desert Storm and Desert Shield during your enlistment. The Board concluded that these factors were not sufficient to warrant relief in your case given your misconduct. In this regard, the Board concluded the severity of your misconduct, which resulted in five NJPs, outweighed your desire to upgrade your discharge. The Board was not persuaded by the contention that you got into trouble while out in the town.

The Board noted that the record shows that you were notified of and waived your procedural rights in connection with your administrative separation. In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. In regards to your contention that you served in Desert Storm and Desert Shield during your enlistment, the Board commends you for your service. However, a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. 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. 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,

[REDACTED]

Executive Director