



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

[REDACTED]
Docket No: 3583-16

JUN 20 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 4 April 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 on 7 June 1990. During the period from 15 May to November 1992, you received two non-judicial punishment (NJP) for two separate occasions of unauthorized absence (UA) totaling 26 days and missing ship's movement. You were convicted by civil authorities for petit theft. You also plead nolo contendere and the civilian court withheld adjudication but sentence you for the following charges: underage possession of alcohol, selling alcohol to a minor and contributing to the delinquency of a minor child. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB recommended an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offence. The discharge authority approved this recommendation and directed an OTH discharge by reason of misconduct. On 7 June 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 carefully weighed all potentially mitigating factors, such as your assertion that a general discharge would allow your children to utilize the Hazelwood Act for Education. The Board concluded that this factor was not sufficient to warrant relief in your case given your misconduct.

In this regard, the Board concluded that the severity of your misconduct, which resulted in two NJPs and a civil conviction, were sufficient to warrant the issuance of an OTH and as such outweighed your desire to upgrade your discharge. The Board was not persuaded by your assertion that a general discharge would allow your children to utilize the Hazelwood Act for Education. Accordingly, your application has been denied.

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