



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

Docket No: 3819-16
MAR 27 2017

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 25 January 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.

In regard to your request for a personal appearance, be advised that the Board regulations state 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 the record.

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 record reflects that you reenlisted in the Navy on 7 April 1996. On 28 January 1998, you were convicted by a summary court-martial (SCM) of disobeying a lawful command from a commissioned officer and failure to obey a lawful order.

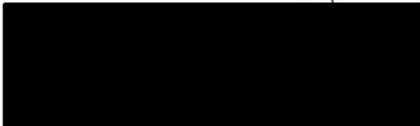
Subsequently, you were notified of administrative separation, at which time you waived your right to consult with counsel and to present your case to an administrative discharge board (ADB). The Commanding Officer recommended administrative discharge with an Other Than Honorable (OTH) characterization of service. The separation authority approved this

recommendation and directed administrative discharge by reason of misconduct due to commission of a serious offense with an OTH and on 14 April 1998, you were discharged.

The Board, in its review of your record and application, carefully weighed all potentially mitigating factors, such as your contentions that your discharge was inequitable because it was based on an isolated incident, you were falsely accused of making a racist statement and your case was not properly investigated. The Board concluded these factors were not sufficient to warrant relief in your case given the racially charged nature of your misconduct. The Board also noted that there is no evidence in your record to substantiate either of your contentions. Further, the Board also noted that the record shows that you were notified of and waived your procedural right to present your case to an ADB. In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. 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