



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

[REDACTED]
Docket No: 6526-16

OCT 12 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 19 July 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, relevant portions of your naval record and applicable statutes, regulations and policies.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, 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 4 January 1994. You served for eight months without disciplinary incident, but on 22 September 1994, you received nonjudicial punishment for disrespect toward a commissioned officer and drunk and disorderly conduct. Subsequently, you were notified of pending administrative separation by reason of misconduct due to commission of a serious offense 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 (OTH) conditions by reason of misconduct due to commission of a serious offense. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 1 November 1994, you were discharged.

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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, and your contention that you were yelling and upset because someone in the bar stole your jacket and that you now have a very bad medical condition. The Board found that these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Regarding your contention, the Board was sympathetic to your medical condition, but concluded the severity of your misconduct, specifically disrespect toward a superior commissioned officer, outweighed your desire to upgrade your discharge. Accordingly, your application has been denied.

Concerning your eligibility for healthcare whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of DVA concerning your right to apply for benefits or appeal an earlier unfavorable determination.

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