



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

[REDACTED]
Docket No: 6544-16
OCT 10 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 Marine Corps and began a period of active duty on 20 August 1990. You served for seven months without disciplinary incident, but during the period from 21 March 1991 to 17 September 1991, you received nonjudicial punishment (NJP) on three occasions. Your offenses were unauthorized absence from your unit for three days, failure to go to your appointed place of duty, and failure to obey lawful regulations. Subsequently, you were notified of pending administrative separation by reason of misconduct due to minor disciplinary infractions 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 minor disciplinary infractions. The discharge authority approved the recommendation and directed separation under other than honorable conditions by reason of misconduct, on 14 November 1991, 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 contention that the offenses do not measure up to serious departures. The Board concluded these factors were not sufficient to warrant relief in your case because of your repeated misconduct that resulted in three NJPs. Further, you were given an opportunity to defend your actions, but waived your procedural rights. In regard to your contention the Board noted after your first and second NJPs, you were counseled regarding your misconduct and warned that further offenses could result in administrative separation. 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,

[REDACTED]

Executive Director