



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

Docket No. 7218-16
NOV 28 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 11 September 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 18 November 1996. On 18 April 1997, you received nonjudicial punishment (NJP) for having an unauthorized male guest, the stepson of another sailor, in your barracks room and admitted to committing an indecent act by kissing and necking with the male guest who was a minor fourteen year old at the time of the offense. On 30 April 1997, your Commanding Officer provided you with notice of his recommendation of proposed separation action by reason of misconduct of a serious offense. As a result of the foregoing, an administrative discharge board (ADB) was held. The ADB found that you committed misconduct but that you should be retained in the Navy. After the ADB you received two NJP's, on 17 May and 28 June 2000, for offenses including insubordinate conduct, breach of peace, provoking speeches, simple assault, communicating a threat, and soliciting another to an offense of assault. Thereafter, on 25 July 2000 you were discharged with an Other Than Honorable (OTH) characterization of service by reason of misconduct.

The Board noted the absence of separation proceedings in your official military records after the NJP you received on 28 June 2000. However, the Board determined in accordance with the

presumption of regularity that attaches to military records that the processing occurred and was in order.

The Board, in its review of your record, and application with supporting documentation, carefully weighed all potentially mitigating factors, such as your desire to upgrade your character of service and contention that you were really young, that charges were never proven, and you've had subsequent good conduct. The Board concluded these factors were not sufficient to warrant relief in your case, because no error or injustice was identified in its review of your record. 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