



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

[REDACTED]
Docket No: 7437-16

SEP 26 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 26 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.

You enlisted in the Navy and began a period of active duty on 18 July 1994. You served for a year and one month without disciplinary incident, but during the period from 28 September 1995 to 14 June 1996, you received nonjudicial punishment (NJP) and were convicted by summary court-martial (SCM). Your offenses were insubordinate conduct toward a noncommissioned officer, failure to obey lawful regulations, sleeping on watch, possession of an open container of alcohol while operating a motor vehicle, unauthorized absence from your unit for periods totaling 109 days and missing ship's movement. Subsequently, you were notified of pending administrative separation by reason of misconduct at which time you waived your procedural rights to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct. The discharge authority approved your commanding officer's recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 23 July 1996, 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 and your contention that you were young when you joined the military and going through problems. The Board found that these factors were not sufficient to warrant relief in your case because of your misconduct that resulted in an NJP and an SCM. Further, you were given an opportunity to defend your actions, but waived your procedural rights. In regard to your contention that your misconduct was the result of your youth, the Board felt that your record clearly reflected your willful misconduct and demonstrated you were unfit for further 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,

[REDACTED]

Executive Director