



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

[REDACTED]
Docket No: 8156-16
JAN 09 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 December 2016. 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 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.

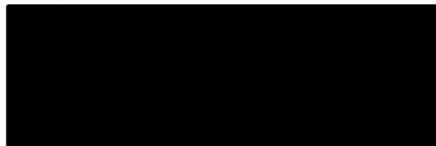
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board noted that the available records appeared to be incomplete and they did not have access to all of your separations paperwork. Of the available records, it was noted that you enlisted in the Navy and began a period of active duty on 10 September 1997. You served without disciplinary incident until 2 July 2001, when you received nonjudicial punishment (NJP) for failure to obey a lawful order. On 11 May 2007, you received a second NJP for making false official statements. On 4 May 2009, you received a third NJP for a general misconduct charge. On 8 August 2014, you were convicted by special court-martial (SPCM) of assault and battery. As a result of the foregoing, administrative separation was initiated due to misconduct and commission of a serious offense. Shortly thereafter, the separation authority directed a general under honorable conditions discharge by reason of misconduct due to commission of a serious offense. On 1 July 2015, you were so discharged.

The Board, in its review of your record, although incomplete, and application with supporting documentation, carefully weighed your desire to have your records cleared of any reference of sexual assault charges. Upon review of SPCM Order 01-14 and your report of results of trial, the Board notated that you were originally charged with, and found not guilty of, two specifications of committing sexual contact. You subsequently plead, and were found guilty of, the lesser offense of assault and battery. The Board was not persuaded by the available evidence of record to remove the original charges given the seriousness of your misconduct. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence within one year from the date of the Board's. New evidence is evidence not previously considered by the Board prior to making its decision your case. 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