



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

[REDACTED]  
Docket No. 325-17

JAN 04 2018

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 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 case on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 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.

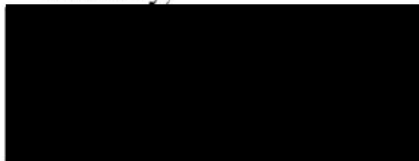
You enlisted in the Navy and began a period of active duty on 7 September 1993. You had a brief period of satisfactory service, but on 17 February 1994 you received nonjudicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ), Article 92 (Failure to Obey Lawful Order) for underage drinking and Article 128 (Assault) for grabbing fellow sailor and throwing him onto a counter. As punishment you received forfeitures and extra duties. On 14 March 1995, you again received NJP, this time for violation of UCMJ, Article 86 (Unauthorized Absence (UA)), and received forfeitures, restriction/extra duties, and reduction in rank (suspended). The suspended punishment was vacated due to your continued misconduct, and on 28 September 1995, you received NJP for violation of UCMJ, Article 86 (UA), and received forfeitures, restriction/extra duties, and reduction in rate to E-1. Due to your repeated misconduct, the discharge authority directed your separation based on Military Personnel Manual (MILPERSMAN) 1910-140 (Misconduct - Pattern of Misconduct) on 20 November 1995 with an Other than Honorable (OTH) characterization of service and a reentry code of RE-4.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully considered your contention that you desire a characterization upgrade and also carefully weighed all potentially mitigating factors, such as your post service

conduct and work ethic. However, the Board did not agree with your rationale for relief. The Board concluded that the mitigating factors were not sufficient to warrant relief in your case because of the seriousness of your continued misconduct. Finally, the Board concluded that the severity of your repeated misconduct outweighed your brief period of satisfactory service and your desire to upgrade your characterization of service. MILPERSMAN 1910-304 dictates that an OTH characterization of service is warranted when conduct involving one or more acts or omissions constitute a significant departure from the conduct expected of members of naval service, specifically, conduct punishable by punitive discharges such as assault. 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