



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

[REDACTED]
Docket No: 397-17

MAR 09 2018

[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 28 February 2018. 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 8 September 1988. You served for a year and four months without disciplinary incident, but on 31 January 1990, you were convicted by general court-martial (GCM) of committing an assault with intent to commit murder, communicating a threat, and used another's telephone credit card number with intent to defraud. The sentence imposed was confinement, a forfeiture of pay, and a bad conduct discharge (BCD). On 25 January 1991, you received a BCD after appellate review was complete.

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, including your contention that your service record was never taken into account; you stated in part that you were a model sailor, and just made a bad decision to be court-martialed. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in a GCM. In regard to your contention the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the

contrary, will presume that they have properly discharged their official duties. Your allegations that proper appellate review procedures were not followed, unsupported in the record or by submission of documentation failed to overcome that presumption. 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