



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

[REDACTED]
Docket No. 671-17

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 17 June 1986. You had over eleven years of satisfactory service, but on 16 October 1997 you received nonjudicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ), Article 107 (False Official Statement) and received a reduction in rank to E-3, forfeitures and 45 days restriction/extra duties. Due to your serious misconduct, the discharge authority directed your separation on 7 November 1997 based on Military Personnel Manual (MILPERSMAN), Section 1910-142 (Misconduct – Commission of a Serious Offense) 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 your characterization should be upgraded because you only had one infraction during your service. The Board also carefully weighed all potentially mitigating factors, such as your post service conduct. However, the Board did not agree with your rationale for relief. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct. 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

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conduct expected of members of naval service, specifically, conduct punishable by punitive discharges. Violation for UCMJ Article 107 can result in a punitive discharge; therefore, the Board concluded that an OTH characterization of service was appropriately assigned in your case. Further, per Secretary of the Navy Instruction 5420.193, 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. 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