



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

SJN  
Docket No: 8801-13  
1 October 2014

[REDACTED]

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 September 2014. 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.

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.

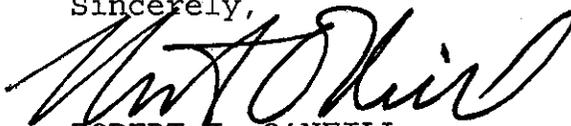
You enlisted in the Navy and began a period of active duty 12 June 1989. The Board found that on 13 August 1990, you were diagnosed by medical personnel with a borderline intellectual functioning and secondary to borderline intelligence, both of which were severe and existed prior to entry onto active duty. At that time, it was recommended that you be administratively separated from the Navy. On 27 August 1990, you received nonjudicial punishment (NJP) for failing to go to your appointed place of duty (extra military instruction). You received restriction and a reduction in paygrade. On 12 September 1990, you were counseled regarding your mental conditions and warned about the consequences of further deficiencies and or misconduct. Although your record is incomplete, on 29 January 1992, a medical entry states that you were pending an other than honorable (OTH) discharge in lieu of court-martial for assault. Prior to submitting this request for discharge, you would have conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such

a discharge. Subsequently, your request for discharge was granted, and on 24 February 1992, you received an OTH discharge in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of service, post service accomplishments, character letter, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP, medical diagnosis, pending SPCM charges for assault, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 decision. New evidence is evidence not previously considered by the Board prior to making its decision in 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,



ROBERT J. O'NEILL  
Executive Director