



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

JDR  
Docket No: 3901-14  
10 April 2015

5 U.S.C. 552(b) (6)

Dear 5 U.S.C.

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 8 April 2015. 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.

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 Marine Corps, began a period of active duty on 18 November 1981, and satisfactorily served without disciplinary incident for about eight months. However, during the period from 30 July to 13 September 1982, you received two nonjudicial punishments (NJP) for absence from your appointed place of duty, disobeying a lawful order, dereliction in the performance of duties, and making false statements. On 7 December 1982, you were convicted by general court martial (GCM) of failure to obey an order or regulation. You were sentenced to confinement at hard labor for seven months, forfeiture of all pay and allowances, reduction in grade to E-1,

and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 25 October 1984, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service and desire to upgrade your discharge. The Board also considered your assertions of a post-traumatic stress disorder (PTSD) diagnosis and that the GCM sentence was too severe in light of your drug related charges. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant an upgrade of your discharge. Further, the Board considered your assertion of PTSD in light of the Secretary of Defense's September 3, 2014 guidance to Boards for Correction of Military records regarding discharge upgrade requests by veterans claiming PTSD. The Board liberally considered whether your PTSD was a causative factor in the misconduct that resulted in your discharge. After full and careful consideration of the matter, the Board determined that there was insufficient evidence in the record, and you provided none, to support a conclusion that a causal relationship with the PTSD symptoms and misconduct existed. Specifically, the Board concluded that your misconduct was not caused by your PTSD and further determined that, even if there was a nexus between the PTSD and the misconduct, the severity of the misconduct would substantially outweigh any mitigation created by your PTSD. Finally, in regard to your assertion on the severity of the sentence imposed at your GCM, the Board concurred that the adjudged sentence in your GCM was fair and equitable to the crime committed. 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 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,

5 U.S.C. 552(b) (6)

ROBERT J. O'NEILL  
Executive Director