



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

TAL
Docket No: 7755-14
6 August 2015

Dear

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 15 July 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 Navy and began a period of active duty on 13 June 1980. On 22 December 1980 you were admitted to the Navy Hospital, Portsmouth, Virginia, for treatment of a post traumatic wound to your right leg. During this admission you underwent several surgeries to repair the wound and preform skin drafts. On 15 January 1981 you were discharged from the hospital to return to duty after convalescent leave and given appropriate work limitations.

You served for a year and four months without disciplinary incident, but during the period from 4 November 1981 to 15 January 1982, you were convicted by a special court-martial (SPCM) and received nonjudicial punishment (NJP). Your offenses were unauthorized absence (UA) and missing ship's movement. On 16 September 1983, you were again convicted by SPCM of UA from your unit for periods totaling 50 days, stealing military property and breaking restriction. The sentence imposed was confinement, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 6 June 1984, you received the BCD after appellate review was complete.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and your assertion that you should have been medically discharged due to your injury. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct. Regarding your assertion, the Board considered your injury and concluded that it was not so mitigating as to excuse you of responsibility for your actions. The Board further concluded that your periods of UA and larceny were too serious to warrant recharacterization of your discharge. 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