



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

TAL
Docket No: 7763-14
7 August 2015²

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 Marine Corps and began a period of active duty on 13 March 1986. You served for seven months without disciplinary incident, but 4 November 1986, you received nonjudicial punishment (NJP) for larceny and failure to obey a lawful order. You were admitted to the Navy Hospital, Camp Lejeune, North Carolina, on 25 November 1986, for the surgical repair of tendons on your right ankle. On 10 December 1986, you again received NJP for unauthorized absence from your unit and insubordinate conduct toward a noncommissioned officer. On 24 June 1987, you were convicted by special court-martial (SPCM) of unauthorized absence (UA) from your unit for a period of 18 days and wrongful appropriation of a television set. The sentence imposed was confinement, reduction in paygrade and a bad conduct discharge (BCD). 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 assertion that you were discharged because of your ankle surgery. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in a BCD. Regarding your assertion, the Board noted that there is no evidence in your record and you submitted none, to support your assertion. Further, the Board considered your injury and concluded that it was not so mitigating as to excuse you of responsibility for your actions. Accordingly, your application has been denied.

Further, regarding your request for a personal appearance, be advised that Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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