



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

SJN

Docket No: 2931-14

31 October 2014

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

Dear

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

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 28 October 2014. 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 28 June 1967. The Board found that you received nonjudicial punishment for disobedience, and were convicted by civilian authorities for operating an automobile without the consent or knowledge of the owner. You were sentenced to two years in jail. Subsequently, your commanding officer recommended that you receive an undesirable discharge by reason of unfitness. At that time you were in the custody of civil authorities. You were notified of pending administrative separation and after being afforded all of your procedural rights, the separation authority approved the recommendation for an undesirable discharge. You were so discharged on 16 September 1970. On 21 July 1977, a Special Discharge Review Board upgraded your characterization of service to general.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service and contention of post-traumatic stress disorder (PTSD) as a result of your Vietnam service. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in NJP and conviction by civil authorities for a very serious offense and ensuring incarceration. With regard to your contention of suffering from PTSD, there is no evidence in the record to support it, and you submitted no such evidence. 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 or other matter 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,

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

ROBERT J. O'NEILL
Executive Director