



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

TLG
Docket No: 8645-14
20 August 2015

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 14 August 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 Maine Corps on 19 February 1965, and serve for about 14 months without incident. However, during the period from 10 April 1966 to 27 January 1969, you received three nonjudicial punishments (NJP) for absence from your appointed place of duty, disobeying a lawful order, and disrespect to an officer. You were also convicted by summary court-martial (SCM) of absence from your appointed place of duty, disrespect, and disobeying a lawful order. On 27 January 1969, you were convicted by general court-martial (GCM) of assault and disrespect.

You were sentence to forfeiture of pay, confinement for one year, reduction to E-1, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 24 June 1969, you were so discharged.

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 of post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded that these factors were not sufficient to warrant relief given your misconduct. In this regard, the Board concluded that your record of multiple infractions/offenses, which resulted in three NJPs, two SCMs, and GCM. Regarding your assertion of suffering from PTSD, the Board considered the existence of your PTSD and determined that it existed at the time of your discharge and weighed its existence as potential mitigation in the misconduct you committed. Specifically, the Board looked to see whether it was a causative factor in your misconduct and weighted it against the severity of your misconduct. After carefully considering the evidence, the Board determined the severity of your misconduct far outweighed any mitigation the PTSD provides. The offenses you committed were very serious in nature warranting the discharge characterization you received even taking into consideration the existence of PTSD. 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