



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

SJN
Docket No: 0021-14
17 November 2014

[REDACTED]

Dear [REDACTED]

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 4 November 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 3 November 1993. During the period from On September 1994 to 20 January 1995, you received two nonjudicial punishments (NJPs) for two instances of disobedience, failing to go to your appointed place of duty, and making a false official statement. Additionally, on three occasions, you were counseled regarding your conduct and behavior, and warned that further misconduct could result in administrative discharge action. On 28 February 1995, you were convicted by summary court-martial (SCM) of failing to go to your appointed place of duty, destroying government property, and breaking restriction.

Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB). Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. The separation authority concurred and directed an OTH discharge by reason of misconduct. You were so discharged on 31 March 1995. At that time, you were assigned an RE-4 (not recommended for reenlistment) reentry code.

The Board, in its review of your record and application, carefully weighed all potentially mitigating factors, such as your record of service, post service accomplishments, letters of recommendation, and desire to upgrade your discharge. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or changing your reentry code given your two NJPs and SCM conviction. An RE-4 reentry code is required when a Marine is discharged due to misconduct and is not recommended for retention. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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,



ROBERT J. O'NEILL
Executive Director