



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

TAL
Docket No: 1053-14
26 February 2015

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 statutes 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 11 February 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 24 July 1980. You served for two years and one month without disciplinary incident, but during the period from 10 September 1982 to 8 December 1983, you received nonjudicial punishment (NJP) on four occasions. Your offenses were sleeping on watch, failure to go to your appointed place of duty and failure to obey a lawful order.

Subsequently, you were notified of pending administrative separation by reason of misconduct at which time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 1 May 1984, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct, desire to upgrade your discharge, and assertion that your disciplinary charges were motivated by racial prejudice. Nevertheless, the Board found that these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct. Further, you were given an opportunity to defend your actions, but waived your procedural rights. Finally, there is no evidence in the record, and you provided none, to support your assertion. 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