



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

TJR
Docket No: 12070-14
27 March 2015

Dear

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 17 March 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 Navy and began a period of active duty on 8 July 1980. You served without disciplinary incident until 24 March 1981, when you were convicted by civil authorities of wrongful possession of marijuana.

On 1 October 1985, you received nonjudicial punishment (NJP) for an unspecified period of unauthorized absence (UA). About five months later, on 13 February 1986, you received NJP for wrongful use of marijuana. As a result, you were processed for an administrative separation by reason of misconduct due to drug abuse. After consulting with legal counsel you submitted a statement in which you requested a general discharge because you felt that your misconduct did not warrant a discharge under other than honorable conditions and asserted that your drug use was a coping mechanism to aid your sleeping as a result of shiftwork.

On 3 March 1986, your commanding officer recommended separation under other than honorable conditions by reason of misconduct due to drug abuse, which was in direct disregard to the Navy's 'Zero Tolerance' Policy, and conviction by civil authorities for possession of marijuana. Prior to the discharge authorities' review, you were committed further misconduct, specifically; you failed to obey a lawful order and again wrongfully used marijuana. These offenses were referred for trial by court-martial, and on 7 May 1986, you were convicted by special court-martial (SPCM) of the foregoing offenses and sentenced to confinement for two months, reduction to paygrade E-2, a \$800 forfeiture of pay, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and on 16 October 1987, you were so discharged.

The Board, in its review of your entire record and application with supporting documentation, carefully weighed all potentially mitigating factors, such as your desire to recharacterize your discharge and your assertions that your drug abuse was originally a coping mechanism to sleep but subsequently adjusted this statement to indicate that your drug use was due to your suffering from Post-Traumatic Stress Disorder (PTSD), pre-service and service related sexual assaults, and undiagnosed mental conditions. The Board further considered your request for corrections to your Certificate of Release or Discharge from Active Duty (DD Form 214). Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repeated drug related misconduct in both the military and civilian communities. Further, you provided no evidence to support your assertions of PTSD, sexual assault or abuse, or undiagnosed mental conditions. Accordingly, your application has been denied.

Regarding your request for corrections to your DD Form 214, you may wish to contact the Department of Navy, Navy Personnel Command (BUPERS), Code Pers-312, 5720 Integrity Drive, Millington, TN 38055-3120, to request these changes and the reissuance of a DD Form 214 which reflects these changes, if warranted.

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

within one year from the date of the Board's decision. 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