



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

TJR
Docket No: 132-14
30 March 2015

[REDACTED]

Dear [REDACTED]

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 Marine Corps on 2 April 2000, and served without disciplinary incident until 1 August 2000, when you received nonjudicial punishment (NJP) for a five day period of unauthorized absence (UA). Shortly thereafter, you were referred for a medical evaluation due to your complaint of back pain, at which time you were advised to comply with a Sports Medicine Treatment Program by attending medical appointments, following light duty recommendations, and obeying medical orders. However, on 9 August 2000, you were counselled due to your failure to comply with the foregoing program. At that time you also waived your right to have your case reviewed by a Physical Evaluation Board (PEB).

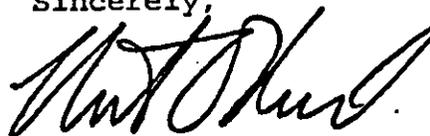
Subsequently, you were administratively processed for separation by reason of a physical condition not a disability, specifically, chronic lower back pain, the severity of which significantly

impaired your ability to function effectively. As such, you were unable to complete required entry level training due to your lack of physical ability to continue serving on active duty. At that time you were not recommended for retention or reenlistment. After waiving your procedural rights, the discharge authority directed an uncharacterized entry level separation by reason of condition not a physical/mental disability that interfered with performance of duties. On 13 October 2000, while serving in paygrade E-1, you were so separated and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to change your reenlistment code so that you may reenlistment. It also considered your explanation regarding the circumstances surrounding your separation. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your chronic lower back pain and failure to successfully comply with a medical treatment program. The Board also noted your decision to waive review of your case by a PEB. 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 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