



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

SJN
Docket No: 1813-14
24 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 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 3 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 and began a period of active duty on 31 May 1968. During the period from 31 January 1969 to 22 February 1970, you received three nonjudicial punishments (NJPs). On 7 July 1970, you were the subject of a psychiatric evaluation that diagnosed you with an aggressive reaction, severe, that existed prior to your entry into the service. On 7 August 1970, you received NJP for 30 days of unauthorized absence. Subsequently, you were notified of pending administrative separation action by reason of unsuitability due to the diagnosed aggressive reaction. You were afforded all of your procedural rights including the opportunity to submit a statement on your behalf. Your case was forwarded to the separation authority and it was directed that you be separated. You received a general discharge on 27 August 1970.

Characterization of service is based in part on conduct and proficiency averages computed from marks assigned on a periodic basis. Your conduct average was 3.5. At the time of your service, a conduct average of 4.0 was required for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service, Vietnam service, desire to upgrade your discharge and assertion that your post service diagnosed Post Traumatic Stress Disorder (PTSD) contributed to your misconduct while on active duty. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your four NJP's, medical diagnoses that existed prior to entry into the service, and failure to attain the conduct average required for an honorable discharge.

The purpose of the Secretary of Defense memorandum on PTSD is to ease the process for veterans seeking to upgrade an "other than honorable" discharge based on misconduct with a PTSD nexus and assist the Boards in reaching fair and consistent results. The memorandum describes the difficulty veterans face on "upgrading their discharges based on claims of previously unrecognized" PTSD. The Secretary explains that since PTSD was not previously recognized as a diagnosis at the time of service for many veterans, and diagnoses were often not made until after service was completed, veterans were constrained in their arguments that PTSD should be considered in mitigation for misconduct committed or were unable to establish a nexus between PTSD and the misconduct underlying their discharge. The policy specifically covers veterans who received other than honorable (OTH) discharges. You received a general discharge under honorable conditions; a characterization of service that is greater than an OTH discharge. Accordingly, the Board determined that your application was not covered by the guidance. In making this decision, the Board closely examined both the language and intent of the policy memorandum. 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