



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

TJR
Docket No: 1998-14
23 March 2015

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 reenlisted in the Marine Corps on 29 March 1964, and served without disciplinary incident until 22 February 1967, when you received nonjudicial punishment (NJP) for wrongful possession of alcoholic beverages in quarters. During the period from 21 to 18 October 1967, you were in an unauthorized absence (UA) status for seven days. During this period of UA, you were apprehended by civil authorities on charges of homicide and two counts of assault with a deadly weapon.

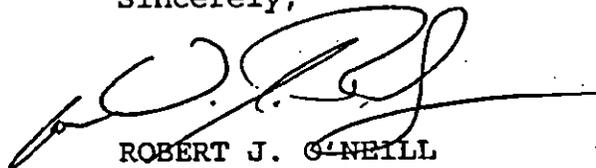
On 15 February 1968, you received your second NJP for a seven day period of UA, disobedience, solicitation, and dereliction of duty. About three months later, on 27 May 1968, you were convicted by civil authorities of second degree murder and sentenced to confinement for 13 to 15 years.

Subsequently, you were administratively processed for separation by reason of misconduct due to civil conviction. After consulting with legal counsel, you elected your rights to present your case to an administrative discharge board (ADB) and to submit a statement in support of your case. In this regard, you submitted a request for a general discharge based on your overall record of service. However, an ADB and your commanding officer recommended separation under other than honorable conditions by reason of misconduct due to civil conviction. In February 1969, the discharge authority approved these recommendations and directed an other than honorable discharge by reason of misconduct. On 27 March 1969, while in the custody of civil authorities, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge because it was the result of a civil offense, not a military offense. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct in both the military and civilian communities. 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