



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

TAL:tjr
Docket No: 2163-14
30 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 30 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 16 September 1986. You served for about seven months without disciplinary incident, but on 17 April 1987, you were convicted by summary court-martial (SCM) of disrespect, failure to obey a lawful order, assault, and drunk and disorderly conduct.

On 22 July 1988 you received nonjudicial punishment (NJP) for wrongful use of marijuana and making a false official statement. Shortly thereafter, on 27 September 1988, you were convicted by special court-martial (SPCM) of two specifications of intent to defraud, wrongful and unlawful use of telephone services in the amount of \$265.58, and disrespect. You were sentenced to a \$400 forfeiture of pay, confinement for 60 days, reduction to paygrade E-1, and a bad conduct discharge (BCD). A month later, on 27

October 1988, you were in the custody of civil authorities, suspected of an alleged rape. In this regard, on 16 February 1989, you were convicted by civil authorities of rape and sentenced to confinement for eight years. Subsequently, the BCD was approved at all levels of review and on 2 August 1989, 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 and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repeated misconduct in both the military and civilian communities, which resulted in your BCD. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct or the passage of time. 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