



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

JDR  
Docket No: 2400-14  
26 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 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, began a period of active duty on 13 August 1992, and satisfactorily served without incident for about 15 years. On 18 September 2007, you were convicted by general court martial (GCM) of larceny, wrongful appropriation, and failure to obey an order. You were sentenced to confinement for 89 days, hard labor without confinement for three months, and a reduction in rank to E-5. On 29 February 2008, you were honorably transferred to the Fleet Reserve/Retired List.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service and desire to modify the adjudged sentence in your courts-martial by restoring you to the grade of E-6. The Board also considered your assertion that the GCM

sentence was disproportionate and unduly harsh, in light of your diagnosis of a mental disorder and kleptomania. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant restoration to the grade of E-6. The Board believed that considerable clemency was extended to you, considering the maximum sentence allowed for your conviction is confinement for 15 years and six months, forfeiture of all pay and allowances, reduction in rank to E-1, and a dishonorable discharge. In regard to your assertion of legal error on the part of the military judge in your GCM, be advised that the Board has no authority to consider assertions pertaining to improprieties, claims of legal error, or allegations of impartiality at courts-martial. Further, the Board does not have the authority to overturn the findings of guilty rendered by courts-martial. In this regard, the Board must restrict its review to the fairness of the sentence imposed. 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,

A handwritten signature in black ink, appearing to read "Robert J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL  
Executive Director