



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

TJR
Docket No: 2403-14
13 April 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 31 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 and began a period of active duty on 30 August 1975. Your record reflects that during the period from 4 February to 13 May 1976, you received nonjudicial punishment (NJP) on four occasions for two specifications of dereliction of duty, three specifications of disobedience, breach of the peace, two specifications of disrespect, and two periods of absence from your appointed place of duty.

You were subsequently processed for an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel, on 5 June 1976, you were discharged under honorable conditions by reason of misconduct. At that time you were not recommended for retention or reenlistment 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 upgrade your discharge and assertions of racism and suffering the consequences of a general discharge which was unjustly given to you. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repetitive misconduct which resulted in four NJPs. Finally, the Board noted that you were fortunate to have received a general discharge because Sailors with a record of misconduct, such as yours, would normally receive a discharge under other than honorable conditions. 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,

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

ROBERT J. O'NEILL
Executive Director