



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

EGA
Docket No: 3481-14
15 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 26 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.

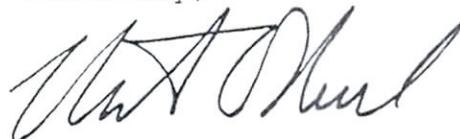
You enlisted in the Navy and began a period of active duty on 22 March 1965. You served for 10 months without disciplinary incident, but during the period from 27 January 1966 to 5 April 1967, you received court-martial convictions on three occasions and nonjudicial punishment (NJP) for several periods of unauthorized absence and breaking arrest. As a result of your second special court-martial (SPCM), you were issued a bad conduct discharge for your frequent violations of the Uniform Code of Military Justice (UCMJ).

On 7 June 1976 you were granted a full pardon by the President of the United States. The Presidential Clemency Board issued you a clemency discharge based upon your completion of alternate service. Presidential Proclamation 4313 of 16 September 1974 provided for voluntary alternative service under the auspices of the Reconciliation Service Program, Selective Service System, for a specified period. Upon completion of the alternative service, former servicemembers would be granted a clemency discharge by the President of the United States. This restored civil rights although not veterans rights or benefits.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your character of service under "Don't Ask, Don't Tell" (DADT) repeal of 10 U.S.C. 654. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case, given the seriousness of your frequent misconduct and court-martial convictions. Please be advised that the DADT Repeal Act provides service discharge review boards with the authority to grant requests to change character of service when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it. In your case, you were discharged due to misconduct, not homosexual conduct. Further, the Board believed that considerable clemency was extended to you under Proclamation 4313 and found no reason to grant additional relief. 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