



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

TAL

Docket No: 3950-14

2 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 of the 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 18 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 10 January 1972. You served for eight months without disciplinary incident, but during the period from 7 September 1972 to 11 June 1974, you received nonjudicial punishment (NJP) on two occasions and were convicted by special court-martial (SPCM). Your offenses were unauthorized absence (UA), assault and failure to go to your appointed place of duty. On 5 June 1975, you were again convicted by SPCM of two instances of UA from your unit for a period totaling 117 days, assault, resisting apprehension and burglary. The sentence imposed was confinement, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 5 February 1976, you received a BCD after appellate review was complete.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your assertions and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct. Finally, there is no provision of law or in Marine Corps regulations that allows for recharacterization of service due solely to 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 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