



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

SJN  
Docket No: 4119-14  
21 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 15 April 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 19 December 1995. Based on your enlisted evaluation report covering the period from 16 January to 1 August 1997, you received two nonjudicial punishments (NJPs) for two instances of disobedience and wrongful use of provoking speech or gestures. Although your record is incomplete, in that it does not contain all of the documentation pertaining to your discharge, it appears that administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. After being afforded all of your procedural rights, your case was forwarded to the separation authority recommending that you be separated due to misconduct. The separation authority concurred and on 11 August 1997, you received a general discharge by reason of misconduct.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service, post service accomplishments, and desire to upgrade your discharge. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your two NJPs. Finally, the Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is discharged for misconduct. 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 "R. J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL  
Executive Director