



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

JDR
Docket No: 4295-14
30 April 2015



Dear 

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 17 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, began a period of active duty on 25 September 1974, and satisfactorily served without disciplinary incident for about four years and three months. However, on 10 January 1979, you received nonjudicial punishment (NJP) for a five day period of unauthorized absence. On 15 May 1985, you were convicted by summary court-martial (SCM) of wrongful use of marijuana and sentenced to a reduction in paygrade to E-5. On 22 February 1989, you received nonjudicial punishment (NJP) for making a false official statement. You

served without further disciplinary incident and on 1 October 2004, you were honorably discharged and transferred to the 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 have your court-martial conviction overturned. The Board also considered your assertion of improprieties in drug-testing procedures and results. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant relief in your case. In regard to your assertion of improprieties, 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,



ROBERT J. O'NEILL
Executive Director