



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

TAL
Docket No: 4318-14
24 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 22 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 Reserve and began a period of active duty on 2 September 1986. You served for nine months without disciplinary incident, but during the period from 20 March 1987 to 5 May 1988, you received nonjudicial punishment (NJP) on four occasions. Your offenses were unauthorized absence, missing ship's movement and disobeying a lawful order.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to a pattern of misconduct at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The discharge

authority approved this recommendation and directed separation under other than honorable conditions by reason misconduct, and on 27 May 1988, you were so discharged.

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 to be eligible for medical benefits with the Department of Veterans Affairs (DVA) and assertion that you did not have representation during your discharge process. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct. Regarding your assertion, the Board noted that you waived the right to legal counsel and ADB, your best opportunity for retention or a better characterization of service. Accordingly, your application has been denied.

The Board believes that under current regulations you may be eligible for veterans' benefits which accrued during your first period of service. Whether or not you are eligible for benefits is a matter under the cognizance of the DVA and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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 cursive script, appearing to read "R. J. O'Neill".

ROBERT J. O'NEILL
Executive Director