



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

JDR
Docket No: 4519-14
11 May 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 24 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 2 June 1994, and served without disciplinary incident for about eight months. However, on 20 January 1995, you received nonjudicial punishment (NJP) for disobeying a lawful order. On 18 May 1995, you received NJP for unauthorized absence, being disrespectful in language, failure to obey a lawful order, making a false official statement, and wrongful possession of two identification cards.

Subsequent to your first NJP, administrative separation action was initiated by reason of personality disorder and misconduct due to the commission of a serious offense. After consulting with legal counsel, you elected your procedural right to present your case to an administrative discharge board (ADB). The ADB determined that you had a personality disorder and had committed misconduct, and on 7 June 1995, recommended a general discharge by reason of misconduct. However, on 8 June 1995, your commanding officer recommended an other than honorable discharge. The discharge authority approved and directed a general discharge, and on 26 July 1995, you were so discharged.

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 upgrade your discharge. The Board also considered your assertion of sexual assault. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant an upgrade of your discharge. Further, with regard to your assertion, the Board noted that the ADB considered but was unable to substantiate your allegations of sexual assault. Finally, after full and careful consideration of the matter, the Board determined that there was insufficient evidence in the record, and you provided none, to support a conclusion that a causal relationship between sexual assault and misconduct existed. 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", is written over the typed name.

ROBERT J. O'NEILL
Executive Director