



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

TAL  
Docket No: 5445-14  
18 December 2014

[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 10 December 2014. 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 26 January 1999. You served for three years and 10 months without disciplinary incident, but during the period from 10 December to 18 December 2014, you received nonjudicial punishment on two occasions. Your offenses were unauthorized absence, making a false official statement, and wrongful use of ecstasy. You remained on active duty until 12 February 2003, when you were released under honorable conditions at the expiration of your enlistment, based on your disciplinary record and conduct mark average.

Characterization of service is based in part on conduct and proficiency averages computed from marks assigned on a periodic basis. Your conduct average was 3.8. At the time of your service, a conduct average of 4.0 was required for a fully honorable characterization of service.

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 and assertion that your Marine Corps record should be changed to reflect the same characterization of service that was given by the Department of Veterans Affairs (DVA). Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. The Board believed that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when a Marine has committed serious disciplinary infractions. Regarding your assertion, the DVA only has the authority to recharacterize your service for their purposes. In other words, the DVA does not have any jurisdiction to change your Marine Corps record. 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