



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

EGA  
Docket No: 5466-14  
10 August 2015

Dear :

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 May 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.

In regard to your request for a personal appearance, be advised that Board regulations state personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of the record.

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 22 February 1973. You served without disciplinary incident until 29 March 1973, when you began a period of unauthorized absence (UA) and did not return until

27 April 1973. As a result of your extended UA, you were sent to Special Court-Martial (SPCM). You were found guilty and received 30 days of restriction with a \$200 forfeiture of pay for one month. On 24 July 1973, you submitted a statement that you had engaged in homosexual activity and that you withheld this information in order to enlist in the Marine Corps. On 1 August 1973, you were recommended for an administrative separation due to fraudulent enlistment. You chose not to consult with counsel, elected to submit statements on your own behalf, and did not object to separation. On 12 September 1973, you were discharged with an other than 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 character of service under "Don't Ask, Don't Tell" (DADT) repeal of 10 U.S.C. 654, contention that you falsely expressed homosexuality as an easy and quick way to get out of the Marine Corps, and family support letters. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case, given that you admitted to using homosexuality as means to get out of the Marine Corps without completing your service obligations. 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 or other matter not previously considered by the Board within one year from the date of the Board's decision. 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", written in a cursive style.

ROBERT J. O'NEILL  
Executive Director