



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

SJN  
Docket No: 5554-14  
6 May 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 5 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.

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 4 May 1971. During the period from 9 May 1972 to 17 January 1973, you received two nonjudicial punishments (NJPs) and were convicted by two summary courts-martial (SCM's). On 27 March 1973, you were counseled regarding testing positive for the wrongful use of morphine. You were warned that further misconduct could result in administrative discharge action. Subsequently, you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. After being afforded all of your procedural rights, you elected to consult with legal counsel and requested an administrative discharge board (ADB). On 14 April 1973, the ADB found that you had committed misconduct, and recommended you receive a general discharge. On 17 April 73, you were convicted by special court-martial (SPCM) of breaking restriction. Further, an investigation implicated you in an alleged larceny incident. At that time the results of your ADB were held in abeyance. On 24 May 1973, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for attempted

larceny, house breaking with intent to commit larceny, being absent from your appointed place of duty, disrespect, wrongful possession of narcotics paraphernalia, three specifications of larceny, and communicating a threat. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. Your request for discharge was granted and on 24 May 1973, you received an other than honorable discharge for the good of the service in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

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 change your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your two NJP's, two SCM's, conviction by SPCM, charges being preferred to a court-martial for serious offenses, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and should not be permitted to change it now. 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