



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

JDR
Docket No: 5656-14
5 August 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 16 June 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.

Further, regarding your request for a personal appearance, be advised that Board regulations state that 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 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 17 May 2005. On 15 June 2005, after nearly a month of

basic training, you were transferred to the Recruit Separation Platoon for processing due to patellofemoral syndrome and iliotibial band syndrome. However, the separation process ceased pending an investigation in which you subsequently received nonjudicial punishment (NJP) on 27 June 2005, for wrongful appropriation. On 29 June 2005, you were counseled and advised that you were being considered for an entry-level performance and conduct separation. The separation authority approved and directed an entry level separation and, on 15 July 2005, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your relatively short period of service, desire to change the narrative reason for separation and desire to remove the NJP from your record. The Board also considered your assertion that you were told the record would not reflect your NJP and you could reapply. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given that you were notified of your separation process within 180 days of the beginning of your period of active service. Navy regulations authorize an uncharacterized entry level separation if the processing for separation begins within 180 days of entering active duty. Further, applicable regulations state, in part, that even if a Marine is processed for separation by reason of a medical condition, if the Marine meets the requirements of another reason, the Marine will be separated for the latter reason. The RE-3F reentry code may not prohibit reenlistment, but requires that a waiver be obtained from recruiting personnel who are responsible for reviewing the feasibility of satisfying the Marine Corps personnel manning goals by determining whether or not an individual meets the standards for reenlistment. If you wish to reenlist, re-affiliate, or be reinstated in the Marine Corps or another branch of service, you should contact the appropriate recruiting facility. Finally, with regard to your assertions, the Board noted that your NJP was appropriately documented in your official military personnel file in accordance with applicable regulations and there is no error or injustice. 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 "R. J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL
Executive Director