



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

JDR
Docket No: 5657-14
29 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, 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 22 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 Navy, began a period of active duty on 16 June 1981, and served without disciplinary incident for about 10 months. On 4 May 1982, you received nonjudicial punishment (NJP) for a 30 day period of unauthorized absence. On 7 October 1982, you received NJP for being incapacitated for the performance of your duties. On 26 February 1984, you were convicted by summary court-martial (SCM) of violating two lawful general orders and being drunk on duty. You were sentenced to confinement at hard labor for 30 days, forfeiture of \$375 pay per month for one month, and reduction in grade to E-2. On 23 April 1984, you received NJP for failing to make muster on

two occasions. On 27 August 1984, you were convicted by SCM of unauthorized absence for a period of 36 days, disobeying a lawful order, and missing a ships movement. You were sentenced to confinement at hard labor for 20 days and reduction in grade to E-1. On 17 September 1984, your security clearance access was downgraded to unclassified due to your frequent misconduct.

Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. At that time you acknowledged that, if separated, the characterization of your service may be under other than honorable conditions. You also elected to waive your procedural rights. Your case was forwarded recommending discharge under other than honorable conditions and the separation authority directed an other than honorable discharge. You were so discharged on 22 October 1984.

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. It also considered your assertion that you were told that you would receive a general discharge under honorable conditions. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of your misconduct which resulted in three NJPs, two SCMs, and a downgraded security clearance. With regard to your assertion, the Board noted that your record contains documentation which reflects that you were notified in writing of the recommend you for discharge whit an under other than honorable characterization of service. Additionally, you initialed your Certificate of Release or Discharge from Active Duty (DD Form 214), which indicates that you were aware at that time of your discharge that the character of service was under other than honorable conditions. Finally, the Board noted that you waived your procedural rights which may have resulted in a better characterization of service. 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