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

TJR
Docket No: 2814-15
23 April 2015

5 U.S.C 552(b) (6)

Dear 5 U.S.C 552(b) (6)

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 23 April 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 and began a period of active duty on 14 August 1974. You satisfactorily served for nearly a year, but during the period from 19 July 1975 to 19 September 1978, you received nonjudicial punishment (NJP) on four occasions for using provoking speeches or gestures, two periods of failure to go to your appointed place of duty, two specifications of failure to obey a lawful order, and assault. The punishment imposed at your 14 March 1979 NJP was reduction to paygrade E-4, which was suspended for six months. However, your misconduct continued and about a month later the reduction was vacated. Shortly thereafter, on 12 April 1979, while serving in paygrade E-4, you were honorably released from active duty and transferred to the Naval Reserve. On 13 August 1980, you were honorably discharged.

The Board, in its review of your entire record and application carefully weighed all potentially mitigating factors, such as your desire to reinstate your paygrade to E-5 and assertion of post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repetitive misconduct, which resulted in four NJPs. Regarding your assertion, the Board noted that the severity of your misconduct outweighed the mitigation offered by your unsubstantiated claim for PTSD. 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,

5 U.S.C 552(b) (6)

ROBERT J. O'NEILL
Executive Director