



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

TJR
Docket No: 1536-15
14 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 8 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 and began a period of active duty on 25 July 1973. On 14 March and again on 2 April 1974, you received nonjudicial punishment (NJP) for a 22 day period of unauthorized absence (UA), five periods of absence from your appointed place of duty, wrongful possession of an identification card, and breaking restriction.

Subsequently, you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for four periods of UA totalling 239 days. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 21 February 1975, your request was granted and the commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. 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. On 22 April 1975, you were issued an other than honorable discharge for the good of the service, and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and change your narrative reason for separation. It also considered your assertion that because you were severely abused, you now suffer with 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 repeated misconduct and lengthy periods of UA, all of which resulted in two NJPs and your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now.

Regarding your assertion PTSD, the Board reviewed your application under the guidance provided in the Secretary of Defense Memorandum of 3 September 2014, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," and concluded that the severity of your misconduct outweighed the mitigation offered by your unsubstantiated claim for PTSD. Accordingly, your application has been denied. 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,


ROBERT J. O'NEILL
Executive Director