



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

BJG  
Docket No: 5694-13  
22 October 2014

[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.

You requested removal of a nonjudicial punishment (NJP) held on 22 June 2012, removal of documentation referring to your promotion delay to captain (pay grade O-6), and promotion to captain with an effective date of 1 September 2012.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 October 2014. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

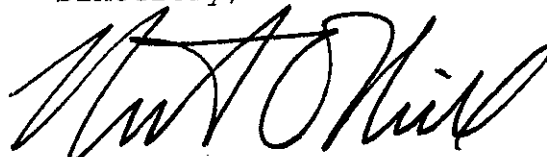
On 3 December 2011, you were arrested in San Diego, California, for an incident involving a female friend. On 22 June 2012, you accepted NJP for conduct prejudicial to good order and discipline, and disorderly conduct. You were found guilty and

did not appeal. In your post NJP statement, you apologized for your grave errors in judgment. You were then advised that your command was administratively separating you due to misconduct. You exercised your procedural right to have your case considered by a board of inquiry (BOI). The BOI found that you did not commit misconduct and recommended retention.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your many years of honorable service and desire to be promoted. However, the Board concluded that you have failed to prove an error or injustice in the imposition of the NJP and it shall remain in your official military personnel file. The Board particularly noted that you did not appeal the guilty findings and admitted grave errors in judgment in your post NJP statement. You are advised that the findings and recommendation of your BOI do not overturn the guilty findings of your NJP. Since the Board found no basis to remove your NJP, it had no basis to promote you to captain. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 "Robert J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL  
Executive Director