



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

TJR
Docket No: 7965-13
12 September 2014

[REDACTED]

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 September 2014. 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 Marine Corps and began a period of active duty on 12 January 1983. You served for about three months without disciplinary incident, but during the period from 12 March 1983 to 2 October 1985, you received nonjudicial punishment (NJP) on five occasions for sleeping on post, failure to go to your appointed place of duty, disobedience, breaking restriction, and a nine day period of unauthorized absence (UA).

Your record reflects that during the period from January 1984 to July 1985, you were seen by medical personnel on several occasions after complaining of back and knee pain and sore shoulders, which resulted from you shoveling snow, skiing, being in the cold too long, falling on cement, and "horse-playing."

Subsequently, you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. After waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due a pattern of misconduct. On 21 October

1985, the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 25 October 1985, you were so discharged.

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 assertion that your separation was due to having back pain. 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 five NJPs. There is evidence in your record which is contrary to your assertion. Finally, you were given an opportunity to defend your actions, but waived your procedural rights. 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. 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