



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

TJR
Docket No: 2115-14
23 March 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 17 March 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 in February 1970. You served for about four months without disciplinary incident, but on 27 June 1970, you received nonjudicial punishment (NJP) for absence from your appointed place of duty, disobedience, and failure to obey a lawful order. Shortly thereafter, on 11 August 1970, you were convicted by summary court-martial (SCM) of breaking restriction.

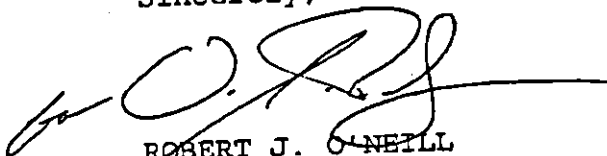
Subsequently, you admitted to using lysergic acid diethylamide (LSD) prior to entering the Navy. However, your commanding officer noted that this information was only offered as a means to secure a discharge. At that time you were not recommended for retention or reenlistment. Nonetheless, after waiving your procedural rights to consult with legal counsel and to present your case to an administrative discharge board, you were

administratively processed for separation by reason of misconduct due to fraudulent entry. On 16 September 1970, you were issued an other than honorable discharge 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 reenlistment code. 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 NJP and SCM. 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