



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

TJR
Docket No: 2137-14
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 on 12 March 2003. The following month, on 4 April 2003, you received nonjudicial punishment for wrongful use of cocaine. As a result, you were administratively separated by reason of misconduct due to drug abuse. Subsequently, the discharge authority directed separation under other than honorable conditions by reason of misconduct and on 22 April 2004, 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 based on a decision by the Department of Veterans Affairs (DAV) to recharacterize your service solely for their purpose. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your drug related misconduct. Finally, the Board noted that you were found guilty

at NJP of wrongful use of drugs and discharged by reason of misconduct for this drug use. As such, the Board concluded that the DVA change in no way negated these actions. 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,

A handwritten signature in black ink, appearing to read 'R. J. O'Neill', written in a cursive style.

ROBERT J. O'NEILL
Executive Director