



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

TAL
Docket No: 312-14
7 January 2015

[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.

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 December 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 29 January 1974. About nine months later, on 21 October 1974, you were in the custody of civil authorities. You were convicted of assault with a deadly weapon and sentenced to 180 days confinement. Based on the information currently contained in your record, upon your return to military control, it appears that you were subsequently processed for separation by reason of misconduct due to civil conviction. In connection with this processing, you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. The record clearly shows that on 3 September 1975, you were discharged with an other than honorable (OTH) discharge by reason of misconduct. At that time you were assigned an RE-4 reentry code, which means that you are neither recommended nor eligible for reenlistment.

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 because you feel the OTH characterization of your service is too harsh, and assertions of mental illness, expungement of civil conviction, and completion of military obligation. Nevertheless, the Board found that these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct. Finally, the Board found the documentation you provided is insufficient to support your assertions. 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 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