



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

JDR
Docket No: 3849-14
8 May 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 24 April 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, began a period of active duty on 19 August 1981, and served without disciplinary incident for about two months. On 25 November 1981, you received nonjudicial punishment (NJP) for violation of a lawful general regulation. On 20 June 1983, you were convicted by special court-martial (SPCM) of 251 days of unauthorized absence (UA). You were sentenced to confinement at hard labor for two months, forfeiture of \$150 pay per month for two months, reduction in grade to E-1, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 27 August 1984, you were so discharged.

The Board, in its review of your application and record (although incomplete), carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge. It also considered your assertion of unfair treatment motivated by racism. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant an upgrade of your discharge, given your misconduct and lengthy period of UA which resulted in NJP and SPCM. Finally, in regard to your assertion of being unfairly treated and racism, be advised that because there is no evidence in the record, the Board was unable to determine if such actions would outweigh the significant misconduct you committed. 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