



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

TAL
Docket No: 4498-14
27 April 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 20 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 and began a period of active duty on 4 October 1979. You served for seven months without disciplinary incident, but during the period from 11 June 1980 to 22 April 1981, you received nonjudicial punishment (NJP) on six occasions and were convicted by summary court-martial. Your offenses were using disrespectful language toward a noncommissioned officer, failure to obey a lawful order, absence from your appointed place of duty, unauthorized absence from your unit and wrongful possession of marijuana. On 22 April 1981, you were convicted by special court-martial of failure to go to your appointed place of duty, disrespect toward a commissioned officer, willfully disobeying a lawful order and failure to obey a lawful regulation. The sentence imposed was confinement a forfeiture of pay and a bad conduct discharge (BCD). Although your BCD discharge was suspended for nine months on 25 June 1981, this suspension was vacated due to your continued misconduct, which consisted of your conviction by summary court-martial of

absence from your appointed place of duty and using disrespectful language toward a noncommissioned officer. On 14 December 1981, you were discharged with a BCD after appellate review.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service rehabilitation and desire to upgrade your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your repeated misconduct. 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 cursive script, appearing to read "Robert J. O'Neill".

ROBERT J. O'NEILL
Executive Director