



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

SJN
Docket No: 477-14
10 February 2015



Dear 

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 21 January 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 Marine Corps and began a period of active duty on 22 August 1985. During the period from 4 November 1985 to 24 April 1986, you received five nonjudicial punishments (NJPs) for assault, failing to go to your appointed place of duty, sleeping on post, three instances of disrespect, reckless driving, disobedience, and breaking restriction. Additionally, you were counseled and warned on more than one occasion that further misconduct could result in administrative discharge action. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB). Your case was forwarded to the separation authority recommending that you be discharged under other than honorable (OTH)

conditions by reason of misconduct. The separation authority concurred and directed an OTH discharge by reason of misconduct. You were so discharged on 21 May 1986.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your record of service, desire to upgrade your discharge, and belief that your characterization of service would be change seven months after your discharge. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your five NJP's, four of which were after you were warned of the consequences of further misconduct. Finally, you are advised that there is no provision of law or in Navy regulations that allows for recharacterization of a discharge automatically or due solely to the passage of time. 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,



ROBERT J. O'NEILL
Executive Director