



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

JDR
Docket No: 5645-14
1 June 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 22 May 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, began a period of active duty on 5 July 1973, and served without disciplinary incident for about 10 months. However, on 18 May 1974 and again on 5 November 1974, you received nonjudicial punishment (NJP) for conspiracy to commit black-marketing and unauthorized absence (UA) from your appointed place of duty. During the period from 28 February 1975 to 28 August 1975, you were convicted by two special courts-martial (SPCM) and one summary court-martial (SCM) of willful disobedience of a command, willful disobedience of a lawful order, being disrespectful in language, and 36 days of UA.

On 24 September 1975, you were convicted by SPCM of failure to go to your appointed place of duty and assault. You were sentenced to confinement at hard labor for five months, forfeiture of \$150.00 pay per month for four months, and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 11 June 1976, you were so discharged.

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 your assertion that you suffered a traumatic head injury while serving in the Marine Corps. 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 misconduct which resulted in two NJPs, an SCM and three SPCMs. With regard to your assertion, the Board noted that there is no evidence in your record, and you submitted none, to support your assertion that you suffered a traumatic head injury while you were in the Marine Corps. 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