DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE ROAD, SUITE 1001

ARLINGTON, VA 22204-2490

JDR
Docket No: 5751-14
5 August 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 23 June 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 10 September 1986, and served without disciplinary incident for about six months. However, on 2 March 1987 and 4 August 1987, you received nonjudicial punishment (NJP) for being absent from your appointed place of duty and an eight-day period of unauthorized absence. On 24 June 1988, you received NJP for wrongful use of marijuana. You received your fourth NJP on 20 December 1988 for operating a vehicle while intoxicated.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of

misconduct. At that time you elected to waive your procedural rights. Your case was forwarded, recommending discharge under other than honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct. The separation authority approved the recommendation and directed an OTH discharge. On 11 March 1989, 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 have been diagnosed with schizophrenia and bipolar disorder. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct which resulted in four NJPs. With regard to your assertion, the Board recognized your recent diagnosis of schizophrenia and bipolar disorder, but noted that there is no evidence in your record, and you submitted none, to support any suggestion that you suffered from or sought help for these conditions while you were in the Marine Corps. Further, even if there was a nexus between your condition and the misconduct, the severity of the misconduct would substantially outweigh any mitigation created by your condition. Finally, the Board noted that you waived your procedural rights which may have resulted in a better characterization of service. 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