



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

JDR
Docket No: 7113-14
5 August 2015

5 U.S.C 552(b) (6)

Dear 5 U.S.C 552(b) (6)

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 2 October 1995, and served without disciplinary incident for about two months. However, on 9 December 1995, you received nonjudicial punishment (NJP) for conspiracy to participate in assault and failure to obey an order. On 7 January 1998, you received a formal counseling due to illegal drug involvement and were advised of mandatory processing for administrative separation for misconduct. On 29 May 1998, you were convicted by summary court-martial (SCM) of wrongful use of lysergic acid diethylamide (LSD) and methamphetamines.

Although complete and legible discharge documentation is not in your record, it appears that administrative separation action was initiated by reason of misconduct, and on 25 September 1998, 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 record of service and desire to upgrade your discharge. The Board also considered your assertions that you plead guilty to charges in exchange for a general discharge and that you did not know you had an other than honorable character of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct which resulted in your SCM conviction based on drug use. In regard to your assertion, there is no evidence in the record, and you submitted none, that you agreed to plead guilty to charges in exchange for a general discharge. Further, the Board noted that you initialed your Certificate of Release or Discharge From Active Duty (DD Form 214), indicating that you were aware of your character of service at the time of discharge. 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,

5 U.S.C 552(b) (6)

ROBERT J. O'NEILL
Executive Director