



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

REC

Docket No: 01145-12

29 November 2012

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 November 2012. 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 active duty on 14 March 1967, at age 17. On 15 June 1968, you were convicted by a special court-martial (SPCM) of sleeping on post. You were sentenced to a forfeiture of \$150, reduction in pay grade, and confinement at hard labor for three months. On 14 January 1969, you were convicted by a summary court-martial (SCM) of being in an off limits area, and being off the base during an unauthorized timeframe. You were sentenced to a forfeiture of \$20, and confinement at hard labor for one month. On 16 March 1969, you were convicted by a second SCM of being in an off limits area, and being off the base during an unauthorized timeframe. You were sentenced to a forfeiture of \$50, and confinement at hard labor for 45 days. On 21 March 1969, you received nonjudicial punishment (NJP) for willfully disobeying a lawful order, two incidents of wrongfully communicating a

threat, and using disrespectful language. On 27 October 1969, you received NJP for two incidents of failure to obey a lawful order, and being disrespectful toward a senior noncommissioned officer (SNCO). On 7 January 1970, you received NJP for being in an unauthorized absence (UA) status for one day, willfully disobeying a lawful order, being disrespectful in language, and being disrespectful toward an SNCO. On 7 May 1969, you were convicted by a second SPCM of being disrespectful in language, disrespectful toward a commissioned officer, disobeying an SCNO, wrongfully using provoking words, being drunk and disorderly, wrongfully discharging a firearm, and wrongfully communicating a threat to a SNCO. You were sentenced to a forfeiture of \$276, confinement at hard labor for six months, and a bad conduct discharge (BCD). On 18 November 1969, administrative separation action was initiated by reason of misconduct. You waived your rights to consult counsel, submit a statement and have your case heard by an administrative discharge board (ADB). On 23 December 1969, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions by reason of misconduct (unfitness). On 6 January 1970, the discharge authority directed an OTH discharge by reason of misconduct (unfitness). On 21 January 1970, you received an OTH discharge for misconduct (unfitness). At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and Vietnam combat service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your discharge, given your record of three NJP's, two convictions by SPCM's, and by two SCM's of serious misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. You are advised that an RE-4 reenlistment code is required when an individual is discharged for misconduct and is not recommended for retention. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 or other matter not previously considered by the Board. 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,

Brian George

BRIAN J. GEORGE
Head, Discharge Section