



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

[REDACTED]
Docket No: 2097-16
FEB 01 2017

[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 16 November 2016. 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 3 April 1973. You served for a year and eight months without disciplinary incident, but during the period from 16 January 1975 to 22 March 1977, you received nonjudicial punishment (NJP) on four occasions. Your offenses were unauthorized absence (UA) from your unit for a period of three days, failure to obey a lawful written order, failure to go to your appointed place of duty. You remained on active duty until 7 April 1977, when you were released from active duty and transferred to the Marine Corps Reserve under honorable conditions at the expiration of your obligated service, based on your disciplinary record and conduct mark average.

Characterization of service is based in part on your conduct average computed from marks assigned on a periodic basis. Your conduct mark average was 3.8. At the time of your service, a conduct mark average of 4.0 was required for a fully honorable characterization of service.


The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge so that display your discharge

for your grandchildren without question, and your contention that you were unfairly singled out by your gunny, who lied at an office hours hearing, and assigned you extra duties on several occasions. Also, that when you went on leave your overseas orders were given to other Marines.

The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your four NJPs and failure to attain the required average in conduct. Further, there is no provision of law or in Navy/Marine Corps regulation that allows for recharacterization of service due solely to the passage of time/good behavior after discharge. In regard to your contention, the Board noted that there is no evidence in your record, and you submitted none, to support your contention and concluded that the severity of your misconduct outweighed your desire to upgrade your 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,


Executive Director