



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

[REDACTED]  
Docket No: 03057-16

[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 considered your application on 24 January 2017. 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 available naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire available record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You began a period of active duty in the Marine Corps on 14 September 1970. On 18 April 1972, at general court martial proceedings, you were found guilty of violating the Uniform Code of Military Justice Article 90 (willfully disobeying the order of superior commissioned officer) and Article 128 (assault). Your confinement records indicate that you state you were trying to break up a fight that turned into a riot. You were discharged from the Marine Corps on 22 January 1973, with an other than honorable characterization of service on the basis of a sentence of a general court martial, with a reenlistment (RE) code of RE-4.

The Board considered your assertion that the discharge was unjust because it was based on one isolated incident within 17 months of service with no other adverse action. Additionally, the Board noted that you state that your discharge was racially influenced, and that the consequences of your involvement in the adverse incident were much more severe than for most people involved in the same offense because of your race, and your assault on a white officer.

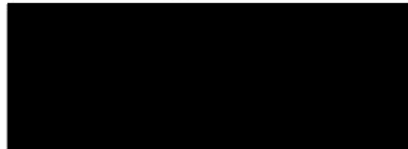
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The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your statement about the influence of race on the general court martial conviction and subsequent discharge. The Board noted that your plenary naval record was not available for review, but that the limited information provided in your Certificate of Discharge supporting an other than honorable discharge characterization given the seriousness of your misconduct of assault and willful disobedience. The Board considered that your involvement was a single adverse incident but determined that the general court martial conviction reflected the gravity of your misconduct. The Board did not find evidence of racism or bias or injustice in the available records. Accordingly, your application has been denied.

It is regrettable 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