



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

[REDACTED]
Docket No: 03553-16

MAY 29 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 considered your application on 13 February 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 naval record and applicable statutes, regulations and policies.

You began a period of active duty in the Marine Corps on 21 July 1993. You served over one year without disciplinary incident. On 19 October 1994, you were counseled for being absent from your appointed place of duty. On 30 December 1994, you received nonjudicial punishment (NJP) for unauthorized absence of approximately 5.5 hours, and received forfeiture of \$238 pay per month for 1 month (suspended), 14 days restriction and 14 days of extra duty. On 20 June 1995, at special court martial proceedings, you were found guilty of violating the Uniform Code of Military Justice, Art. 80 (attempting to steal one stereo speaker), Art. 121 (guilty of stealing personal property from your fellow Marines), and Art. 129 (two specifications of breaking and entering a BEQ room). The Court sentenced you to a bad conduct discharge, confinement for 180 days, forfeiture of \$569 pay per month for 6 months, and reduction to E-1. The Navy and Marine Corps Court of Criminal Review approved your sentence on 10 October 1995, and on 12 June 1996, you were discharged with a bad conduct discharge.

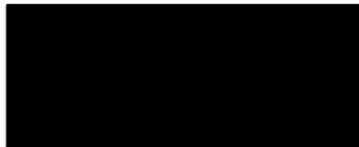
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board considered your request for an upgrade to your bad conduct discharge as well as your statement that the characterization eliminates adequate daily support of your family as well as

sustainable employment. When making its determination, the Board noted that you state you are no longer the same person who committed the mistakes made while on active duty.

The Board, in its review of your entire record and application, noted the character letters you submitted as well as the Veterans Benefits Administrations Letter of Eligibility for determination for health care and other benefits. The Board found, however, that the seriousness of your misconduct as evidenced by your special court martial conviction supported the issuance of the bad conduct discharge, and your post-service conduct does not mitigate the gravity of your in-service offenses. The Board concluded that bad conduct discharge was issued without error or injustice. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence 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,



Executive Director