



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

[REDACTED]
Docket No: 3569-16/
4481-03
MAR 21 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your latest reconsideration request dated 13 April 2016. You previously petitioned the Board and were advised in our letter dated 14 November 2003 that your application had been disapproved. Your case was reconsidered in accordance with Board for Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F.Supp.2d 48 (D.D.C. 2004).

Your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records, sitting in executive session on 19 January 2017. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your application and any material submitted in support of your application.

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

The Board gave liberal consideration to your new statement in support of your application, your youth and immaturity at the time of your separation, and your contention that your legal counsel did not give you full information regarding loss of veteran benefits or rights before you accepted and signed your request for administrative separation in lieu of trial by court-martial. However, the Board noted your administrative separation in lieu of trial by court-martial request shows you conferred with counsel, were "entirely satisfied with his advice", and understood that an undesirable discharge may "deprive me of virtually all rights as a veteran under both Federal and State legislation." As a result of this request, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. The Board concluded that you received the benefit of your bargain with the Marine Corps when your request was granted and you should not be permitted to change it now. Accordingly, the Board concurs with the previous Board decision and your application must again be denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken again. You are entitled to have the Board reconsider its decision upon submission of new and material evidence. New evidence is evidence not previously considered by the Board prior to making its decision in your case. In the absence of sufficient new and material evidence for

reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

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,

[REDACTED]

Executive Director