



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

[REDACTED]
Docket No: 3572-16
FEB 08 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your record pursuant to the provisions of title 10, 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 22 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 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 Navy, began a period of active duty on 18 October 1999, and served less than five months before beginning an extended period of unauthorized absence (UA) from 1 March 2000 to 24 August 2001. It appears that you requested a discharge for the good of the service to avoid trial by court-martial for the lengthy UA. Before making such a request, you would have conferred with a qualified military lawyer and been advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Because you requested a discharge in lieu of trial, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 19 October 2001, you were issued an other than honorable (OTH) discharge.

The Board, in its review of your record and application, carefully weighed your desire to upgrade your OTH discharge, and all potentially mitigating factors such as your immaturity during your time of service and difficulties in obtaining employment. However, the Board concluded these factors were insufficient to warrant recharacterization of your discharge because of the severity of your misconduct which resulted in your request for discharge. The Board believed that

considerable clemency was extended to you when your request for discharge was approved because, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. The Board further concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and that your discharge should not be changed now. 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 record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

[REDACTED]

Executive Director