



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

[REDACTED]
Docket No: 3769-16

JUN 22 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 4 April 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.

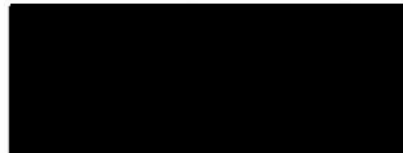
You enlisted in the Marine Corps on 5 April 1976. According to your records, during the period from 19 February to 18 January 1978, you received four non-judicial punishments (NJP) for the following offenses: Unauthorized Absence (UA) on three different periods totaling 13 days, absent from your appointed place of duty and missing ship's movement. On 1 June 1978, you submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial for 38 days of UA. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights including your right to present your case to an Administrative Discharge Board and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and you were discharged on 20 July 1978 with an other than honorable (OTH) characterization of service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

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 carefully weighed all potentially mitigating factors, such as your desire to upgrade your

discharge and contention that you were young, had personal problems, and received no legal counseling. However, the Board found that these factors were not sufficient to warrant relief in your case given your misconduct. In this regard, the Board concluded that your periods of UA outweighed your desire to upgrade your discharge. Moreover, the Board was not persuaded by your contention that you were young and received no legal counsel. The record shows that you requested a good of the service discharge in lieu of trial by court-martial which requires that legal counsel be provided during the process. The Board noted that there is no evidence in your record, and you submitted none, to support your contention of having personal problems back home. Finally, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted. 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