



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

[REDACTED]
Docket No: 3878-16

JUN 20 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 18 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.

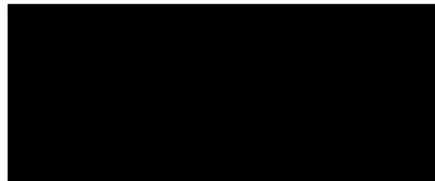
You enlisted in the Navy on 25 September 1972. During the period from 3 April to June 1973, you received two nonjudicial punishments (NJP) for unauthorized absence (UA) on two separate occasions totaling 23 days. You were also convicted by summary court-martial (SCM) of being in an UA status for 17 days. On 21 September 1973, you submitted a written request for discharge for the good of the service to avoid trial by court-martial for reason not to be shown. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and your Commanding Officer was directed to issue a discharge based on Type Warranted by Service Record (TWSR) due to reason "not to be shown." 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. On 15 October 1973, you received a general discharge and was assigned an RE-4 reenlistment code.

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 assertion that you were told your discharge would be upgraded six months after

discharge. However, the Board found that these factors were not sufficient to warrant relief in your case given your misconduct and request for discharge. In this regard, the Board concluded that your misconduct, as evidenced by two NJPs and a SCM, outweighed your desire to upgrade your discharge. The Board noted that Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.6. An average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service. Further, there is no provision in law or regulations that allows for re-characterization of a discharge automatically after six months, due solely to the passage of time. The Board also believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. 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