



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

[REDACTED]
Docket No: 4378-16
SEP 14 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your reconsideration request received on 22 August 2016. You previously petitioned the Board and were advised in our letter of 19 August 1982, that your application had been denied. Your case was reconsidered in accordance with Board of Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F.Supp.2d 48 (D.D.C. 2004).

Because your application was submitted with new requests not previously considered, the Board found it in the interest of justice to review your most recent application. In this regard, your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records on 14 June 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

After careful and conscientious consideration of the entire record, and a review of your request to upgrade your discharge characterization, to have the "flag to be removed," and to clear your rank, the Board determined that you did not provide sufficient evidence to warrant corrective action. The Board considered that during your time in the Marine Corps, you submitted a request for an other than honorable discharge in lieu of a court martial for a period of unauthorized absence totaling 44 days, wearing improper liberty attire, resisting apprehension, assaulting a military police officer, and being disorderly. The Board considered your claim of self-defense, but found that you did not provide information that contravened your voluntary submission of a request for an other than honorable discharge. Additionally, the Board found your application did not contain information on which to base an increase in rank or the removal of any flags for adverse information. Accordingly, your application has been denied.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. 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 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