



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

Docket No: 6546-16
AUG 31 2017

Dear

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 28 June 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.

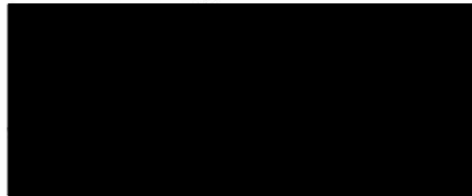
You enlisted in the Marine Corps and began a period of active duty on 10 February 1972. You served for a year and seven months without disciplinary incident, but on 11 October 1973, you were convicted by special court-martial (SPCM) of unauthorized absence (UA) from your unit for a period of 157 days. About 11 months later you were again convicted by SPCM for UA from your unit for a period of 136 days. The sentence imposed was confinement at hard labor, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 10 February 1976, you received the BCD after appellate review was complete.

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, and your claim that the Department of Veterans Affairs (DAV) told you, you needed to upgrade your discharge. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in two SPCMs and periods of UA totaling over nine

months. In regard to your claim, the DAV determines eligibility for post-service benefits, not the BCNR. There is no requirement or law that grants recharacterization solely on the issue of obtaining veterans benefits. 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