



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

[REDACTED]
Docket No: 6614-16
OCT 30 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 22 August 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, relevant portions of your naval record and applicable statutes, regulations and policies.

You enlisted in Marine Corps on 15 November 1973. According to the information in your record, during the period from 30 July 1975 to 19 October 1976, you received five nonjudicial punishments (NJP) for the following offenses: four specifications of unauthorized absences (UA), three specifications of disobeying a lawful order, two specification of being absent from your appointed place of duty, failure to obey a lawful regulation, and two specifications of article 92 (unspecified). Subsequently, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement with military authorities. After you waived your procedural rights, your commanding officer recommended a general discharge by reason of misconduct due to frequent involvement with military authorities. The discharge authority approved this recommendation and directed a general discharge by reason of misconduct. On 12 November 1976, you were discharged.

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 contentions that it has been 40 years since your discharge and you served in an honorable fashion while in the Marine Corps. The Board concluded that these factors were not sufficient to warrant relief given your misconduct.

The Board concluded that the seriousness of your repetitive misconduct, which resulted in five NJPs, outweighed your desire to upgrade your discharge and supports the commanding officer's decision to issue you a general discharge. The Board also 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 3.9. An average of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service. The Board noted that there is no provision in law or regulations that allows for re-characterization of a discharge automatically after 40 years due solely to the passage of time. In regard to your contention that you served in an honorable fashion while in the Marine Corps. The Board noted a Marine's service is characterized at the time of discharge based on performance during the current enlistment. 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