



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

Docket No. 6831-16
NOV 28 2017

Dear [REDACTED]

This is in reference to your reconsideration request received on 1 November 2016. You previously petitioned the Board and were advised in our letter of 7 January 2016, 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).

The Board found it in the interest of justice to consider your request. In this regard, your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records (BCNR) on 16 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.

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 issue involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 19 November 1973. On 18 October 1974, you received nonjudicial punishment (NJP) for unauthorized absence (UA) for a period of two hours. On 13 November 1974, you received an NJP for two specifications of being UA for over one hour on both occasions. On 27 December 1974, you received an NJP for failure to obey a lawful order and assaulting a noncommissioned officer with a knife. On 6 January 1975, you once again received an NJP for being UA for over three hours. As a result of the foregoing, your Commanding Officer (CO) recommended you for an undesirable discharge due to frequent misconduct. The Board noted that despite the CO's recommendation, you once again received an NJP for being absent from your place of duty. On four December 1975, you requested a discharge in lieu of trial by court martial because of three specifications of being absent from your appointed place of duty and two specifications of failure to obey a lawful order.

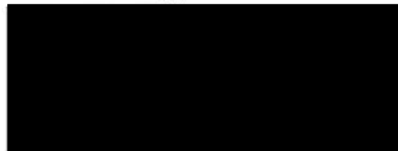
On 19 December 1975, the separation authority approved your request and directed you be separated with an other than honorable (OTH) discharge for the good of the service. On 31 December 1975, you were discharged with an OTH characterization of service.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board, in its review of your record, and application with supporting documentation, carefully weighed all potentially mitigating factors, such as your desire to upgrade your character of service and your contention that you were told that your separation character of service would upgrade to a general under honorable conditions discharge after six months of being separated. The Board noted that 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 with post service good behavior. Therefore, the Board concluded these factors were not sufficient to warrant relief in your case. 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,



Executive Director