



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

[REDACTED]
Docket No: 7253-16
NOV 07 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 12 September 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 the Marine Corps on 24 February 1982. During the period from 26 December to 5 February 1993, you received nonjudicial punishment (NJP) on two occasions. Your offenses were absence from appointed place of duty, disobeying a lawful regulation, and breaking restriction. On 18 November 1993, you were convicted by special court-martial (SPCM) of absence from appointed place of duty, larceny, and fraud by writing and cashing checks belonging to another Marine. You were sentenced to confinement for five months, forfeiture of pay, reduction to E-1, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 4 November 1994, 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 contention that your discharge was supposed to be upgraded after six months. However, the Board found that these factors were not sufficient to warrant relief given your misconduct. In this regard, the Board concluded that the severity of your misconduct, which resulted in two NJPs, a SPCM, and a BCD, outweighed your desire to upgrade your discharge.

In regards to your contention, the Board noted that there is no provision in law or regulations that allows for a discharge to be automatically upgraded after six months. 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