



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

[REDACTED]
Docket No: 7261-16
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.

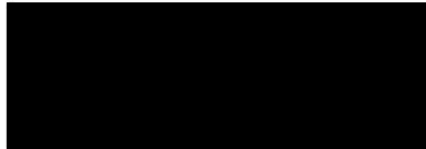
You enlisted in the Navy and began a period of active duty on 10 March 1980. During the period from 3 February 1982 to 3 February 1983, you received five captain's mast / nonjudicial punishments (NJP) on five occasions. Your offenses were three specification of unauthorized absence (UA) totaling 93 days, 10 specifications of being absent from appointed place of duty, missing ship's movement, and breaking restriction. Subsequently, on 17 March 1983, you were notified of pending administrative separation action by reason of misconduct due pattern of misconduct. After you consulted with counsel and waived your procedural rights and went UA for an additional 37 days. As a result of the forgoing, on 26 May 1983, you were convicted by special court martial (SPCM) of UA totaling 37 days. You were sentenced to confinement for 90 days and a bad conduct discharge (BCD). On 5 May 1986, the appellate action was approved and 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 over 33 years since your discharge, you would like to be eligible for Department of Veterans Affairs (DVA) benefits, and after your first captain's

mast your record stated "one more infraction, and I would be discharged with a General Discharge." In regard to your contention that you would like to be eligible for DVA benefits, whether or not you are eligible for benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits. Additionally, the Board believes that you were given multiple chances to correct your misconduct after your first captain's mast to receive a more favorable discharge. However, the Board found that these factors were not sufficient to warrant relief given your pattern of misconduct. In this regard, the Board concluded that the severity of your misconduct, which resulted in five NJPs, a SPCM, and a BCD, outweighed your desire to upgrade your discharge. 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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director