Docket No: 7412-16
NOV 0 1 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 29 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 the Marine Corps on 20 June 1972. During the period from 21 June 1973 to 21 February 1975, you received six non-judicial punishments (NJP) for the following offenses: six specifications of being absent from appointed place of duty, unauthorized absence (UA), disrespectful in language and failure to obey a lawful order. You were also convicted by special court martial (SPCM) of two specifications of assault with intent to commit bodily harm. On 14 March 1975, you submitted a written request for discharge for the good of the service to avoid trial by court-martial for 113 days of unauthorized absence. Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and your Commanding Officer was directed to issue an other than honorable (OTH) discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction, as well as the potential penalties of such a punitive discharge. On 25 March 1975, 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 your contention that your discharge was unjust because it was based on one

incident in a racist unit. However, the Board found that these factors were not sufficient to warrant relief in your case given your request for a good of the service discharge in lieu of a trial by court-martial. The Board was not persuaded by the unsubstantiated contention that your discharge was unjust because it was based on one incident in a racist unit. The Board noted that there is no evidence in the record, and you provided none, to support your contention. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Finally, the Board noted you received the benefit of your bargain with the Navy when your request for discharge was granted and that your discharge should not be changed now. 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