



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

[REDACTED]
Docket No. 7460-16
DEC 11 2017

[REDACTED]
Dea [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 25 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 and began a period of active duty on 5 February 1973. On 6 September 1973, 4 October 1973, and 9 May 1974 you received nonjudicial punishment (NJP) for unauthorized absence (UA). On 12 April 1974, you were convicted at a special court martial (SPCM) for a 48 day period of being UA. On 27 June 1974, you once again received an NJP for being UA. From the period of 17 September to 14 November 1974, you were declared a deserter for being UA for a period of 58 days. As a result of the foregoing, administrative discharge proceedings were initiated. You waived your right to an administrative discharge board and, subsequently, the separation authority directed an other than honorable (OTH) discharge by reason of unfitness. On 23 June 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 carefully weighed all potentially mitigating factors, including your desire to upgrade your character of service and your contention that you were under the impression that you were discharged with a general under honorable conditions character of service. In light of your multiple periods of being UA, the Board determined that the severity of your misconduct outweighed your desire to upgrade your characterization of discharge. The Board noted that the record shows that you were notified of and waived your procedural right to present your case to

an administrative board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. The Board concluded there was no error or injustice in your record. 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 solid black rectangular box used to redact the signature of the Executive Director.

Executive Director