




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


Docket No: 7554-16
NOV 07 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 13 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 17 August 1978. You served for two years and three months without disciplinary incident, but on 26 November 1980, you received nonjudicial punishment (NJP) for wrongfully disobeying a lawful order issued by a noncommissioned officer. Seven months later you were convicted by special court-martial (SPCM) of unauthorized absence (UA) from your appointed place of duty, disrespect toward a commissioned officer, using disrespectful language toward a commissioned officer, assault on a commissioned officer and sleeping on post. You were sentenced to confinement at hard labor, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 14 June 1983, you received the BCD after appellate review was complete.

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, in its review of your entire record and application, carefully weighed all potentially mitigating factors, and your contention that you were advised by your attorney that you were going to be reduced in rank to E-1, locked up for six months, and sent back to the same unit so

your attorney suggested that you should take the BCD and get it all behind you. The Board noted that you provided no evidence to support your contentions. Absent of such evidence, the Board relied upon the presumption of regularity. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in an NJP and a SPCM. 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