Docket No: 7579-16

NOV 0 7 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.
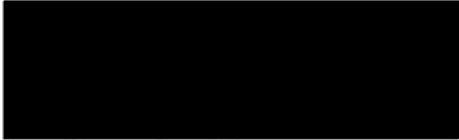
Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application 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 31 July 1990. You served for a year and three months without disciplinary incident, but during the period from 17 October 1991 to 6 January 1992, you received nonjudicial punishment (NJP) on three occasions. Your offenses were willfully disobeying a lawful order from a noncommissioned officer, unauthorized absence (UA) from your unit for a period of two days, failure to go to your appointed place of duty, and breaking restriction. Subsequently, you were notified of pending administrative separation by reason of misconduct due to a pattern of misconduct at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ABD). On 26 January 1992, you were convicted by summary court-martial (SCM) of failure to go to your appointed place of duty and using disrespectful language toward a noncommissioned officer. Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation and directed your separation under other than honorable conditions by reason of misconduct. On 13 April 1992, you were so 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, in its review of your entire record and application carefully weighed all potentially mitigating factors, such as your post service conduct, support letters and contention that you made the decision to leave after receiving a letter that your mother had tried to kill herself, and your request for leave was denied. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in three NJPs and a SCM. Further, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Regarding your contention the Board was sympathetic to your concern for your mother but determined that your desire to upgrade your discharge was not enough to outweigh the significant misconduct you committed. 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