



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

[REDACTED]  
Docket No: 7874-16

NOV 28 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 4 October 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, your naval record, and applicable statutes, regulations, and policies.

You enlisted in the Marine Corps and began a period of active duty on 5 December 1972. You served for about six months without disciplinary incident, but during the period from 29 June 1973 to 6 June 1974, you received nonjudicial punishment (NJP) and were convicted by special court-martial (SPCM). Your offenses were unauthorized absence (UA) from your unit for periods totaling 205 days and leaving your post without being properly relieved. On 4 October 1974, you were once again in a UA status from your unit until you were apprehended by the Federal Bureau of Investigation and return to military control on 14 May 1976, a period of 591 days.

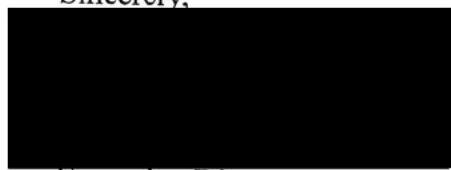
Although the Board lacked your entire service record book (SRB) it appears from your SRB entries that you made a written request for discharge for the good of the service to avoid trial by court-martial for the aforementioned periods of UA. Prior to submitting this request you would have conferred with 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 the commanding officer directed your other than honorable (OTH) discharge. As a result of this action, you were spared the stigma of a court-martial conviction and the

potential penalties of a punitive discharge and confinement at hard labor. On 3 June 1976, you were discharged under OTH conditions.

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 desire to receive an upgrade to your discharge and your contentions that there were a lot of conflicts between blacks and whites, you believed that if you had stayed around you would be in the brig, and that you did not want to be around drugs. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in an NJP, an SPCM and periods of UA totaling more than two years and two months, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. 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