



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

Docket No: 8027-16
NOV 20 2017

Dear [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 12 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.

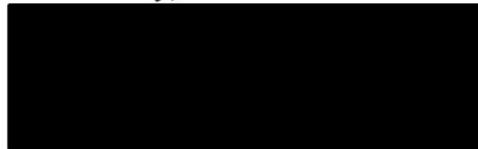
You enlisted in the Marine Corps and began a period of active duty on 24 July 1995. On 26 June 1996, you were counseled regarding your failure to maintain height and weight standards. On 28 June and 4 September 1996, you received nonjudicial punishment (NJP) for being disrespectful in language and being absent from a working party. On 24 February 1997, you were counseled regarding your substandard behavior and poor performance. On 7 April 1997, you received a third NJP for being absent from watch and group aid station on three occasions, disobeying a lawful order, making a false official statement, being drunk and disorderly, and drinking under the age of 21. On 24 July 1997, you submitted a written request for an other than honorable (OTH) discharge in order to avoid trial by court-martial for disobeying a lawful order to report all visitors to the duty noncommission officer and, have a visitor of the opposite sex in your room after 2200 hours. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your request for discharge was granted and on 29 August 1997, you received an OTH discharge in lieu of trial by court-martial. 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.

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, including your record of service, you were in the process of being discharged due to failing to maintain height and weight standards with an honorable under medical conditions discharge, and desire to upgrade your discharge. The Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in three NJP's, being counseled on two occasions, charges being preferred to a court-martial for serious offenses, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and should not be permitted to change it now. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon 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 large black rectangular redaction box covering the signature of the Executive Director.

Executive Director