



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

[REDACTED]
Docket No: 03167-16/
12943-11
APR 18 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your reconsideration request received on 8 April 2016. You previously petitioned the Board and were advised in our letter of 13 September 2012, that your application had been denied. Your case was reconsidered in accordance with Board of Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F.Supp.2d 48 (D.D.C. 2004).

Although your application was not filed in a timely manner, your application was submitted with a new basis for relief not previously considered and the Board found it in the interest of justice to consider this new assertion. Specifically, the Board considered your request for an upgrade to your service characterization on the basis of injustice due to the emotional stress of your personal situation at the time of your military service as well as the fact that you surrendered in to face the consequences of your unauthorized absence. In this regard, your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records on 12 January 2017. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your application and any material submitted in support of your application.

After careful and conscientious consideration of the entire record, the Board determined that the statements you provided, even though not previously considered by the Board, were insufficient to establish the existence of probable material error or injustice. Specifically, the Board found that although the pressure you faced in your family life was unfortunate, it did not mitigate the seriousness of your misconduct as evidenced by nonjudicial punishment proceedings for dereliction in the performance of duty and a period of unauthorized absence that lasted for 52 days. A review of your recent application reveals that again your request must be denied. In this regard, the Board considered your statement about your personal situation and noted that you terminated your period of unauthorized absence by surrender, but found that the other than honorable characterization of service was appropriate given the seriousness of your misconduct. Accordingly, your application has been denied.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. 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 the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

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