



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

[REDACTED]  
Docket No: 3220-16  
JAN 3 1 2017

[REDACTED]  
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 8 November 2016. 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.

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.


You enlisted in the Marine Corps and began a period of active duty on 1 July 1992. During the period from 11 December 1992 to 10 March 1995, you received two nonjudicial punishments (NJP) for the following offenses: underage drinking, being absent from your appointed place of duty, failure to carry out an order, willfully disobeying a lawful order, and breach of correctional custody. On 16 May 1995, you submitted a written discharge request for the good of the service, to avoid trial by court-martial for larceny and breaking restrictions. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights—including the right to present your case to an Administrative Discharge Board—and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and you were discharged on 27 June 1995 with an other than honorable (OTH) characterization of service. 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.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and your contention that you are unable to receive VA benefits. Nevertheless, the Board found that these factors were not

sufficient to warrant relief in your case given your misconduct. In this regard, the Board concluded that your misconduct, as evidenced by two NJPs and your request for discharge, outweighed your desire to upgrade your discharge. Regarding whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of the DVA concerning your right to apply for benefits. 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 within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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