



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

██████████  
Docket No: 4070-16

AUG 15 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 2 May 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.

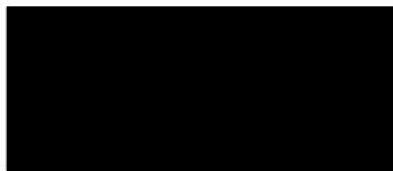
You enlisted in the Marine Corps on 22 July 1975. During the period from 23 June to 21 September 1976, you received three nonjudicial punishments (NJP) for the following offenses: unauthorized absence (UA) for 15 days, absent from appointed place of duty, and breaking restriction. On 19 September 1977, you submitted a written request for discharge for the good of the service to avoid trial by court-martial for a 72 day UA. Prior to submitting this request, you 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 your commanding officer was directed to issue you an other than honorable discharge by reason of the good of the 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. On 11 October 1977, you were issued an other than honorable (OTH) 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 carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and contention that your performance was satisfactory during your service in the

Marine Corps. However, 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 multiple offenses, to include a lengthy period of UA, outweighed your desire to upgrade your discharge. The Board also was not persuaded by the contention that your performance was satisfactory during your service in the Marine Corps. It is a fundamental tenet of military administrative law that a Marine's service is characterized based on his record in the current enlistment. The Board also believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. The Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and that your discharge should not be changed now. 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