



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

[REDACTED]
Docket No: 4324-16

AUG 15 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 9 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 19 October 1982. During the period from 5 February 1984 to 25 April 1985, you received three nonjudicial punishments (NJP) for the following offenses: two specifications of being absent from your appointed place of duty, resisting arrest, and sitting on post. You were also counseled on three separate occasions on your poor attitude, unsatisfactory performance, unprofessional behavior and disregard of military authority. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB recommended an other than honorable (OTH) discharge by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation and directed an other than honorable discharge by reason of misconduct. On 23 September 1985, you were 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 you were placed on light duty for two months and your Commanding Officer was against you being on light duty. However, the Board concluded that

these factors were not sufficient to warrant relief given your misconduct and repeated counselings. In regard to your contention about light duty, the Board noted you elected to have your case heard by an ADB, which was your chance to voice your concerns, and opportunity to advocate for a better discharge. The ADB recommended an OTH discharge. The Board concluded that your misconduct, as evidenced by three NJPs, outweighed your desire to upgrade your discharge. 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,

[REDACTED]

Executive Director